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PENNSYLVANIA BULLETIN

Volume 40

Number 18

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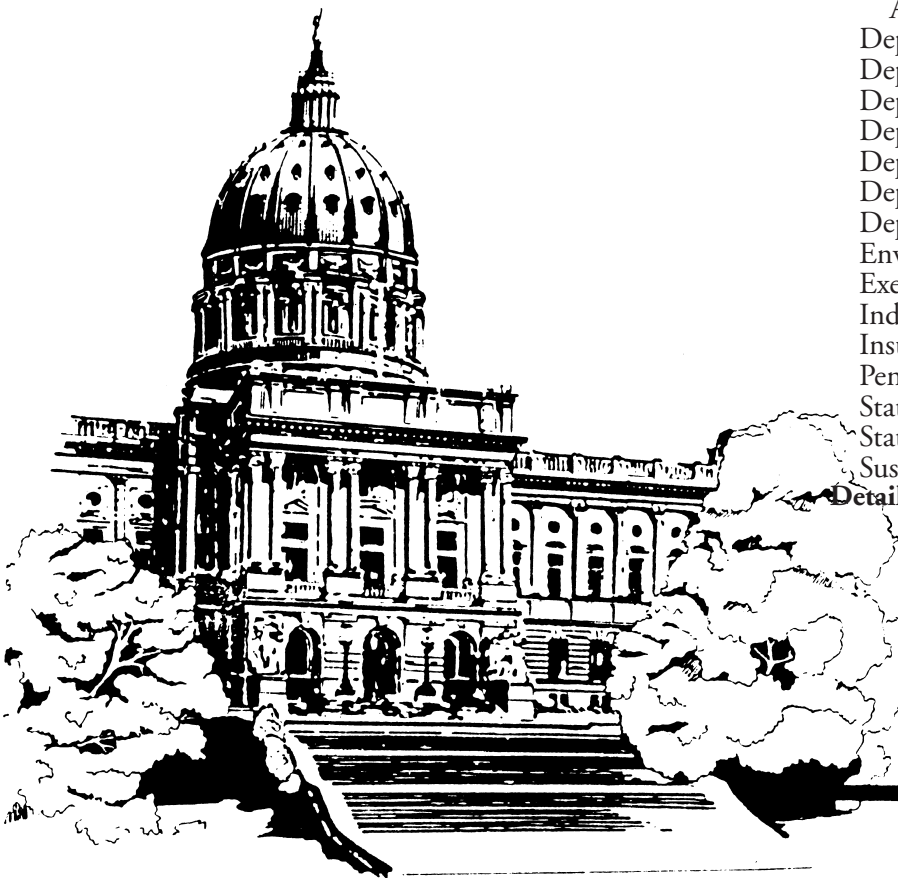
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**Latest Pennsylvania Code Reporters
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No. 426, May 2010

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

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

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THE GENERAL ASSEMBLY

COMMISSION ON SENTENCING

Meetings Scheduled

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

Thursday May 13, 2010	Policy Committee Meeting	9:30 a.m.—12 p.m.
	Commission Meeting	1 p.m.—4 p.m.

MARK H. BERGSTROM,
Executive Director

[Pa.B. Doc. No. 10-758. Filed for public inspection April 30, 2010, 9:00 a.m.]

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Proposed Amendment of Rule 220.1 Governing *Voir Dire*; Proposed Recommendation No. 246

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 220.1 governing *voir dire* sales be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania. All communications in reference to the proposed recommendation should be sent no later than June 9, 2010 to:

Karla M. Shultz, Esquire
Counsel
Civil Procedural Rules Committee
601 Commonwealth Avenue, Suite 6200
P. O. Box 62635
Harrisburg, PA 17106-2635
fax (717) 231-9526
civil.rules@pacourts.us

By the Civil Procedural Rules Committee

STEWART L. KURTZ,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 220.1. *Voir Dire*.

(a) *Voir dire* shall be conducted to provide the opportunity to obtain at a minimum a full description of the following information, where relevant, concerning the prospective jurors and their households:

- (1) Name;
- (2) [**Date**] **Year** and place of birth;
- (3) Residential neighborhood and zip code (not street address);
- (4) Marital status;
- (5) Nature and extent of education;
- (6) Number and ages of children;
- (7) Name, age and relationship of members of prospective juror's household;
- (8) Occupation and employment history of the prospective juror, the juror's spouse and children and members of the juror's household;
- (9) Involvement of the prospective juror or any member of the prospective juror's immediate family as a party or a witness in a civil lawsuit or a criminal case;
- (10) Relationship, friendship or association of the prospective juror or any member of the prospective

juror's immediate family with a law enforcement officer, a lawyer or any person affiliated with the courts of any judicial district;

(11) Relationship of the prospective juror or any member of the prospective juror's immediate family to the insurance industry, including employee, claims adjuster, investigator, agent or stockholder in an insurance company;

(12) Motor vehicle operation and licensure;

(13) Physical or mental condition affecting ability to serve on a jury;

(14) Reasons the prospective juror believes he or she cannot or should not serve as a juror;

(15) Relationship, friendship or association of the prospective juror or any member of the prospective juror's immediate family with the parties, the attorneys and prospective witnesses of the particular case to be heard;

(16) Such other pertinent information as may be appropriate to the particular case to achieve a competent, fair and impartial jury.

Official Note: For example, under presently prevailing law as established by the Superior Court, *voir dire* should have been allowed with respect to the effect of pre-trial publicity on prospective jurors' "attitudes regarding medical malpractice and tort reform." *Capoferri v. Children's Hosp. of Phila.*, 893 A.2d 133 (Pa. Super. 2006) (en banc).

(b)(1)(i) **A judge shall initiate the examination of jurors in open court. The initial examination shall include, but not be limited to, identifying the parties and their attorneys, briefly outlining the nature of the case and explaining the purposes of the examination.**

(ii) **Except as provided in subdivision (b)(1)(i), the attorneys shall conduct the examination of the prospective jurors. Any dispute shall be resolved by a judge.**

(2) The court may provide for *voir dire* to include the use of a written questionnaire. However, the use of a written questionnaire without the opportunity for oral examination by the court or counsel is not a sufficient *voir dire*.

Official Note: [**The parties or their attorneys may conduct the examination of the prospective jurors unless the court itself conducts the examination or otherwise directs that the examination be conducted by a court employee. Any dispute shall be resolved by the court.]**

A written questionnaire may be used to facilitate and expedite the *voir dire* examination by providing the trial judge and attorneys with basic background information about the jurors, thereby eliminating the need for many commonly asked questions.

[(c) **The court may permit all or part of the examination of a juror out of the presence of other jurors.]**

(c)(1) ***Voir dire* examination, including all rulings by a judge, shall be recorded in full unless the**

recording is waived. The record shall be transcribed only upon written request of a party or order of court.

(2) Subsequent to the procedure in subdivision (b), upon request by an attorney, a judge shall permit individual examination of a juror in a separate room beyond the hearing and presence of other jurors.

* * * * *

Explanatory Comment

The Civil Procedural Rules Committee is proposing the amendment of Rule 220.1 governing *voir dire* in several respects.

Subdivision (a) provides certain categories of information that may be asked of prospective jurors. Subdivisions (a)(9), (10), and (15) currently ask about involvement of the prospective juror as a party or witness in a civil lawsuit, or the relationship of the prospective juror with a law enforcement officer, a lawyer or any person affiliated with the courts of any judicial district, or with the parties, the attorneys and prospective witnesses of the particular case to be heard. The amendment to subdivision (a) would expand these categories to include questions concerning the same involvement or relationships of a member of the prospective juror's immediate family.

The amendment to subdivision (b) would require a judge to initiate the *voir dire* examination, which would include the identification of the parties and their attorneys, a brief outline of the nature of the case, and an explanation of the purposes of the examination. Upon the conclusion of the judge's examination, the attorneys for the parties shall conduct examination of the prospective jurors. Upon the conclusion of the examination by the attorneys, new subdivision (c)(2) provides that a judge shall permit individual examination of a prospective juror in a separate room out of the hearing and presence of other jurors.

The amendment to subdivision (c)(1) would require the entire *voir dire* examination to be recorded in full, including all ruling by a judges, unless it is waived by the parties.

[Pa.B. Doc. No. 10-759. Filed for public inspection April 30, 2010, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 3000]

In Re: Amendment of Rules 3111, 3111.1, 3140, 3141, 3252 and 3253 of the Rules of Civil Procedure; No. 523; Civil Procedural Rules

Order

Per Curiam:

And Now, this 16th day of April, 2010, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been published at 38 Pa. B. 5591 (October 11, 2008), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 955 No. 1):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 3111, 3111.1, 3140, 3141, 3252 and 3253 of the Pennsylvania Rules of Civil Procedure are amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective May 17, 2010.

PATRICIA NICOLA,
Chief Clerk

Supreme Court of Pennsylvania

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 3000. JUDGMENTS

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

Rule 3111. Service of the writ on garnishee; effect.

* * * * *

Official Note: For limitations on the power to attach tangible personal property see Rule 3108(a).

See Rule 3111.1 providing that service of the writ does not attach [**the defendant's funds on deposit in a bank or other financial institution in an account in which funds are deposited electronically on a recurring basis and are identified as funds which upon deposit are exempt from attachment**] the first \$10,000 of each account of the defendant in which any funds are deposited electronically on a recurring basis and are identified as funds that upon deposit are exempt from attachment, or each account of the defendant in which funds on deposit exceed \$10,000 at any time, if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from attachment.

* * * * *

Rule 3111.1. Exemptions from levy and attachment.

In the absence of a court order, service of the writ upon a bank or other financial institution as garnishee shall not attach [**any of the defendant's funds on deposit with the bank or other financial institution in an account in which**]

(1) **the first \$10,000 of each account of the defendant containing any funds which are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, [or]**

Official Note: See Rule 3146(b)(2) governing judgment against a bank or other financial institution as garnishee upon admission in answer to interrogatory.

(2) **each account in which funds on deposit exceed \$10,000 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, and**

(3) **the funds on deposit, not including any otherwise exempt funds, that do not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123.** The plaintiff shall have the right to file an objection if the plaintiff believes that the defendant has exhausted the statutory exemption.

Rule 3140. Notice by garnishee.

* * * * *

Official Note: Registered mail includes certified mail. See Definition Rule 76.

Attachment of wages, salary and commissions to satisfy a money judgment arising from a residential lease pursuant to Section 8127(a)(3.1) of the Judicial Code is governed by Rule 3301 et seq.

(d) Where funds in an account are not attached as a result of Rule 3111.1, the garnishee shall not assess any fee against exempt funds contained in any account held by the garnishee.

Rule 3141. Garnishee's duty to defend; venue of proceedings.

(a) [A] Except as provided in Rule 3111.1, a garnishee who forwards copies of the writ and answers to interrogatories to the defendant shall thereafter be under no duty to resist the attachment or defend the action against the defendant in any manner but may do so as provided by these rules.

* * * * *

Subchapter E. ENFORCEMENT OF JUDGMENTS IN SPECIAL ACTIONS

FORMS

Rule 3252. Writ of execution; money judgments.

* * * * *

WRIT OF EXECUTION

Commonwealth of Pennsylvania)

County of _____)

To the Sheriff of _____ County:

To satisfy the judgment, interest and costs against _____, defendant

(Name of Defendant)

(1) you are directed to levy upon the property of the defendant and to sell the defendant's interest therein;

(2) you are also directed to attach the property of the defendant not levied upon in the possession of _____,

as garnishee, _____, and to notify the garnishee that (Specifically describe property)

(a) an attachment has been issued;

(b) except as provided in paragraph (c), the garnishee is enjoined from paying any debt to or for the account of the defendant and from delivering any property of the defendant or otherwise disposing thereof;

(c) the attachment shall not include [**any funds in an account of the defendant with a bank or other financial institution**

(i) in which funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, or] (i) the first \$10,000 of each account of the defendant with a bank or other financial institution containing any funds which are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law.

(ii) each account of the defendant with a bank or other financial institution in which funds on deposit exceed \$10,000 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are

exempt from execution, levy or attachment under Pennsylvania or federal law.

(iii) any funds in an account of the defendant with a bank or other financial institution that total \$300 or less. If multiple accounts are attached, a total of \$300 in all accounts shall not be subject to levy and attachment as determined by the executing officer. The funds shall be set aside pursuant to the defendant's general exemption provided in 42 Pa.C.S. § 8123.

(3) if property of the defendant not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify such other person that he or she has been added as a garnishee and is enjoined as above stated.

Amount due \$ _____

Interest from _____ \$ _____

[[Costs to be added]]

Costs to be added \$ _____

(Name of Prothonotary (Clerk))

Seal of the Court

By _____

(Deputy)

* * * * *

Rule 3253. Interrogatories in attachment.

Interrogatories of the plaintiff to the garnishee shall be substantially in the following form:

[[Caption]] (Caption)

Interrogatories to Garnishee

["]To _____:

(Garnishee)

["]You are required to file answers to the following interrogatories within twenty (20) days after service upon you. Failure to do so may result in judgment against you:

["]1. At the time you were served or at any subsequent time did you owe the defendant any money or were you liable to the defendant on any negotiable or other written instrument, or did the defendant claim that you owed the defendant any money or were liable to the defendant for any reason?

["]2. At the time you were served or at any subsequent time was there in your possession, custody or control or in the joint possession, custody or control of yourself and one or more other persons any property of any nature owned solely or in part by the defendant?

["]3. At the time you were served or at any subsequent time did you hold legal title to any property of any nature owned solely or in part by the defendant or in which the defendant held or claimed any interest?

["]4. At the time you were served or at any subsequent time did you hold as fiduciary any property in which the defendant had an interest?

["]5. At any time before or after you were served did the defendant transfer or deliver any property to you or to any person or place pursuant to your direction or consent and if so what was the consideration therefore?

["]6. At any time after you were served did you pay, transfer or deliver any money or property to the defen-

dant or to any person or place pursuant to the defendant's direction or otherwise discharge any claim of the defendant against you?

7. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law? If so, identify each account and state [**the reason for the exemption, the amount being withheld under each exemption**] **the amount of funds in each account**, and the entity electronically depositing those funds on a recurring basis.

8. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which the funds on deposit, not including any otherwise exempt funds, did not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123? If so, identify each account.
(The plaintiff may set forth additional appropriate interrogatories.)

* * * * *

Explanatory Comment—2010

New Rule 3111.1 was promulgated in 2007 to address the failure of the rules of civil procedure to protect funds held in accounts of banks and other financial institutions that are exempt from execution, levy, and attachment pursuant to federal and state legislation. The current rule protects from attachment all funds in an account in which any funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy, or attachment. The amendment to subdivision (1) of Rule 3111.1 provides that only the first \$10,000 held in an account may not be attached whenever the account includes any funds that are identified as being exempt from execution, levy, or attachment. If an account holder believes the remainder is also exempt, he or she may petition the court for relief. Under new subdivision (2) any funds that exceed \$10,000 in an account may be attached unless all funds in the account are identified as exempt funds.

[Pa.B. Doc. No. 10-760. Filed for public inspection April 30, 2010, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1, 11, 15 AND 16]

Proposed Modifications of Rules 1151, 1512, 1515, 1608, 1609 and 1613 and Adoption of New Rules 136, 1136, 1603 and 1606

Introduction

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modifications of Rules 1151, 1512, 1515, 1608, 1609 and 1613 and new Rules 136, 1136, 1603, and 1606 be adopted and prescribed. The amendments concern *ex parte* communications and permanency planning for a child. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the intent of the Rules. Note that the Committee's Reports should not be confused with the official Committee Comments to the Rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

We request that interested persons submit suggestions, comments or objections concerning this proposal to the Committee through counsel,

A. Christine Riscili, Esq.
Staff Counsel
Juvenile Court Procedural Rules Committee
Pennsylvania Judicial Center
P. O. Box 62635
Harrisburg, PA 17106-2635

no later than Friday, May 28, 2010.

By the Juvenile Court Procedural Rules Committee
CYNTHIA K. STOLTZ, Esq.,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

**CHAPTER 1. GENERAL PROVISIONS PART
A. BUSINESS OF COURTS**

Rule 136. *Ex Parte* Communication.

A) No person shall communicate with the court in any way regarding matters pending before the court unless all parties:

- 1) are present or have been copied if the communication is written or in electronic form; or**
- 2) have waived their presence or right to receive the communication.**

B) If the court receives any *ex parte* communication, the court shall inform all parties of the communication and its content.

Comment

No *ex parte* communications with the court are to occur. Communications should include all parties, such as the filing of a motion, or conducting a conference or a hearing.

Attorneys are bound by the Rules of Professional Conduct. See Rules of Professional Conduct Rule 3.5. Judges are bound by the Code of Judicial Conduct. See Code of Judicial Conduct Canon 3 A.(4).

Attorneys and judges understand the impropriety of *ex parte* communications but many participants are not attorneys or judges. This rule ensures that all parties have received the same information that is being presented to the court so that it may be challenged or supplemented.

Scheduling and other administrative matters are not considered *ex parte* communications.

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1136. *Ex Parte* Communication.

A) No person shall communicate with the court in any way regarding matters pending before the court unless all parties:

1) are present or have been copied if the communication is written or in electronic form; or

2) have waived their presence or right to receive the communication.

B) If the court receives any *ex parte* communication, the court shall inform all parties of the communication and its content.

Comment

No *ex parte* communications with the court are to occur. Communications should include all parties, such as the filing of a motion, or conducting a conference or a hearing.

Attorneys are bound by the Rules of Professional Conduct. See Rules of Professional Conduct Rule 3.5. Judges are bound by the Code of Judicial Conduct. See Code of Judicial Conduct Canon 3 A.(4).

Attorneys and judges understand the impropriety of *ex parte* communications but many participants are not attorneys or judges. This rule ensures that all parties have received the same information that is being presented to the court so that it may be challenged or supplemented.

Scheduling and other administrative matters are not considered *ex parte* communications.

PART B(2). COUNSEL

Rule 1151. Assignment of Guardian *ad litem* and Counsel.

A. *Guardian ad litem for child.* The court shall assign a guardian *ad litem* to represent the legal interests and the best interests of the child if a proceeding has been commenced pursuant to Rule 1200 alleging a child to be dependent who:

1) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the physical, mental or emotional health, or morals;

2) has been placed for care or adoption in violation of law;

3) has been abandoned by parents, guardian, or other custodian;

4) is without a parent, guardian or legal custodian; or

5) is born to a parent whose parental rights with regard to another child have been involuntarily terminated under 23 Pa.C.S. § 2511 (relating to grounds for involuntary termination) within three years immediately preceding the date of birth of the child and conduct of the parent poses a risk to the health, safety, or welfare of the child.

B. *Counsel for child.* The court shall appoint legal counsel for a child:

1) if a proceeding has been commenced pursuant to Rule 1200 alleging a child to be dependent who:

a) while subject to compulsory school attendance is habitually and without justification truant from school;

b) has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of the child's guardian and who is ungovernable and found to be in need of care, treatment, or supervision;

c) is under the age of ten years and has committed a delinquent act;

d) has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in paragraph (B)(1)(b); or

e) has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is defined as ungovernable in paragraph (B)(1)(b); or

2) upon order of the court.

C. *Counsel and Guardian ad litem for child.* If a child has legal counsel and a guardian *ad litem*, counsel shall represent the legal interests of the child and the guardian *ad litem* shall represent the best interests of the child.

D. *Time of appointment.*

1) *Child in custody.* The court shall appoint a guardian *ad litem* or legal counsel immediately after a child is taken into protective custody and prior to any proceeding.

2) *Child not in custody.* If the child is not in custody, the court shall appoint a guardian *ad litem* or legal counsel for the child when a dependency petition is filed.

E. *Counsel for other parties.* If counsel does not enter an appearance for a party, the court shall inform the party of the right to counsel prior to any proceeding. If counsel is requested by a party in any case, the court shall assign counsel for the party if the party is without financial resources or otherwise unable to employ counsel. Counsel shall be appointed prior to the first court proceeding.

Comment

See 42 Pa.C.S. §§ 6302, 6311, and 6337.

The guardian *ad litem* for the child may move the court for appointment as legal counsel and assignment of a separate guardian *ad litem*, when, for example, the information that the guardian *ad litem* possesses gives rise to the conflict and can be used to the detriment of the child. To the extent 42 Pa.C.S. § 6311(b)(9) is inconsistent with this rule, it is suspended. See Rule 1800. See also Pa.R.P.C. 1.7 and 1.8. Under paragraph (C), legal counsel represents the legal interests of the child and the guardian *ad litem* represents the best interests of the child.

Nothing in these rules anticipates that a guardian *ad litem* for an adult is to be appointed by these rules. For appointment of a guardian of the person, see 20 Pa.C.S. § 5501 *et seq.* and Pa.O.C. Rules 14.2—14.5.

Pursuant to paragraph (E), the court is to inform all parties of the right to counsel if they appear at a hearing without counsel. If a party is without financial resources or otherwise unable to employ counsel, the court is to appoint counsel prior to the proceeding. Because of the nature of the proceedings, it is extremely important that every "guardian" has an attorney. Therefore, the court is to encourage the child's guardian to obtain counsel. Pursuant to Rule 1120, a guardian is any parent, custodian, or other person who has legal custody of a child, or person designated by the court to be a temporary guardian for purposes of a proceeding. See Pa.R.J.C.P. 1120.

Official Note: Rule 1151 adopted August, 21, 2006, effective February 1, 2007. Amended February 20, 2007, effective immediately. Amended May 12, 2008, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1151 published with the Court's Order at 36 Pa.B. 5571, 5599 (September 2, 2006).

Final Report explaining the amendments to this rule published with the Court's Order at 37 Pa.B. 1123, 1124 (March 10, [1007] 2007).

Final Report explaining the amendments to Rule 1151 published with the Court's Order at 38 Pa.B. 2360, 2363 (May 12, 2008).

CHAPTER 15. DISPOSITIONAL HEARING**PART B. DISPOSITIONAL HEARING AND AIDS****Rule 1512. Dispositional Hearing.**

A. *Manner of hearing.* The court shall conduct the dispositional hearing in an informal but orderly manner.

1) *Evidence.* The court shall receive any oral or written evidence which is helpful in determining disposition, including evidence that was not admissible at the adjudicatory hearing.

2) *Opportunity to be heard.* Before deciding disposition, the court shall give the parent, child's foster parent, preadoptive parent, relative providing care for the child and court appointed special advocate, if assigned, an opportunity to make a statement.

B. *Recording.* The dispositional hearing shall be recorded. [**The recording shall be transcribed:**

- 1) pursuant to a court order; or
- 2) when there is an appeal.

C. Ex parte Communication.

1) Except as provided by these rules, no person shall communicate with the court in any way.

2) If the court receives any ex parte communication, the court shall inform all parties of the communication and its content.]

C. *Duties of the court.* The court shall determine on the record that the parties have been advised of the following:

- 1) the right to file an appeal;
- 2) the time limits for an appeal; and
- 3) the right to counsel to prepare the appeal.

D. *Court's Findings.* On the record, the court shall state:

- 1) its disposition;
- 2) the reasons for its disposition;
- 3) the terms, conditions, and limitations of the disposition;
- 4) the name of any person or the name, type, category, or class of agency, licensed organization, or institution that shall provide care, shelter, and supervision of the child;
- 5) a finding, if the child is placed, that;
 - a) remaining in the home would be contrary to the welfare, safety, or health of the child;
 - b) reasonable efforts were made by the county agency to prevent the child's placement;

c) the child's placement is the least restrictive placement that meets the needs of the child, stating the reasons why there are no less restrictive alternatives available; and

d) if preventive services were not offered due to the necessity of an emergency placement, whether such lack of services was reasonable under the circumstances; and

6) whether any evaluations, tests, counseling, or treatments are necessary;

7) the permanency plan for the child;

8) the services necessary to achieve the permanency plan;

9) any educational, health care, and disability needs of the child; and

10) a visitation schedule, including any limitations.

Comment

To the extent practicable, the judge or master that presided over the adjudicatory hearing for a child should preside over the dispositional hearing for the same child.

Paragraph (A)(2) does not infringe on the right to call witnesses to testify, in addition to those specified individuals. See Rule 1123 for subpoenaing a witness.

[**For transcription of the record under paragraph (B), see also Rule 1127.**

Under paragraph (C), no ex parte communications with the court are to occur. Attorneys and judges understand the impropriety of ex parte communications but many participants are not attorneys or judges. This rule ensures that all parties have received the same information that is being presented to the court so that it may be challenged or supplemented. Normal methods of practice and procedure such as motions, scheduling, communications with court personnel, are not considered ex parte communications.]

Pursuant to paragraph (D)(7), the court is to determine the permanency plan for the child. A permanency plan should include two plans or goals: the primary plan and the secondary or concurrent plan.

The primary plan is the comprehensive plan developed to achieve the permanency goal. The secondary or concurrent plan is developed and initiated so that if the primary plan is not fulfilled, timely permanency for the child may still be achieved. These two plans are to be simultaneously addressed by county agency.

Rule 1608 mandates permanency hearings at least every 6 months. It is best practice to have 3-month hearings to ensure permanency is achieved in a timely fashion and the court is informed of the progress of the case. See Comment to Rule 1608.

See Rule 1136 regarding ex parte communications.

Official Note: Rule 1512 adopted August, 21, 2006, effective February 1, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1512 published with the Court's Order at 36 Pa.B. 5571, 5599 (September 2, 2006).

Rule 1515. Dispositional Order.

A. *Generally.* When the court enters a disposition, the court shall issue a written order, which provides that the disposition is best suited to the safety, protection, and physical, mental, and moral welfare of the child. The order shall include:

1) [**the terms, conditions, and limitations of the disposition;**

2) **the name of any person or the name, type, category, or class of agency, licensed organization, or institution that is to provide care, shelter, and supervision of the child;**

3) **any findings pursuant to Rule 1514 if a child is being removed from the home;**

4) **any ordered evaluations, tests, counseling, or treatments;**

5) **any ordered family service plan or permanency plan if not already prepared;**

6) **any visitations, including any limitations] any findings pursuant to Rule 1512 (C);**

[7)]2) the date of the order; and

[8)]3) the signature and printed name of the judge entering the order.

B. *Transfer of legal custody.* If the court decides to transfer legal custody of the child to a person or agency found to be qualified to provide care, shelter, and supervision of the child, the dispositional order shall include:

1) the name and address of such person or agency, unless the court determines disclosure is inappropriate;

2) the limitations of the order; and

3) any visitation rights.

C. *Orders concerning guardian.* The court shall include any conditions, limitations, restrictions, and obligations in its dispositional order imposed upon the guardian.

Comment

See 42 Pa.C.S. §§ 6310, 6351.

45 CFR [§]1356.21 provides **that** a specific foster care provider may not be placed in a court order to be in compliance with and receive funding through the Federal Financial Participation.

Dispositional orders should comport in substantial form and content to the Juvenile Court Judges' Commission model orders to receive funding under the federal Adoption and Safe Families Act (ASFA) of 1997 (P. L. 105-89). The model forms are also in compliance with Title IV-B and Title IV-E of the Social Security Act. For model orders, see <http://www.jcjc.state.pa.us> or <http://www.dpw.state.pa.us> or request a copy on diskette directly from the Juvenile Court Judges' Commission, Room 401, Finance Building, Harrisburg, PA 17120.

See *In re Tameka M.*, 525 Pa. 348, 580 A.2d 750 (1990).

Official Note: Rule 1515 adopted August, 21, 2006, effective February 1, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1515 published with the Court's Order at 36 Pa.B. 5571, 5599 (September 2, 2006).

CHAPTER 16. POST-DISPOSITIONAL PROCEDURES**PART A. SUMMONS, NOTICE, AND REPORTS**

1600. Summons for the Permanency Hearing.
1601. Permanency Hearing Notice.

PART B(1). MODIFICATIONS

1603. **Modification of Dependent Child's Placement.**
1604. Submission of Reports.

PART B(2). PERMANENCY HEARING

1606. **Goal Change Motion.**
1607. Regular Scheduling of Permanency Hearing.
1608. Permanency Hearing.
1609. Court Order of Permanency Hearing Determinations.

PART C. TERMINATION AND POST-DISPOSITIONAL PROCEDURES

1613. Termination of Court Supervision.
1616. Post-Dispositional Procedures; Appeals (Reserved).

PART B(1). MODIFICATIONS

Rule 1603. Modification of Dependent Child's Placement.

A. County agency's duties.**1) Emergencies.**

a) **Only in an emergency when a judge cannot be reached, a child may be placed temporarily in a shelter care facility or other appropriate care.**

b) **The county agency immediately shall alert the court of any change made due to the emergency.**

c) **The county agency shall file a motion or stipulation for modification of the dispositional order within twenty-four hours of the child's placement in a shelter care facility or other appropriate care.**

2) **Non-emergent cases. In all other cases, the county agency shall seek approval of the court for a change in the child's placement prior to the removal of the child from the placement by the filing of a motion or a stipulation for modification of the dispositional order.**

B. Contents of the motion. The motion for modification of the dispositional order shall include:

1) **the specific reasons for the necessity of change to the order;**

2) **the proposed placement;**

3) **the current location of the child;**

4) **the manner in which any educational, health care, and disability needs of the child will be addressed;**

5) **an averment as to whether each party concurs or objects to the proposal; and**

6) **the signatures of all the parties.**

C. Objections. If a party objects to proposed modification of the dispositional order, the objections shall be filed no later than three days after the filing of the motion for modification of the child's placement.

D. Court's duties. Once the county agency has requested approval from the court to modify a child's placement or after an emergency change in placement has already taken place, the court may:

1) **schedule a prompt hearing to determine whether there will be a modification of the child's placement;**

2) enter an appropriate order to modify the child's placement; or

3) enter an order denying the motion.

Comment

If there must be a change in the placement of the child due to an emergent situation, the county agency may temporarily place a child in a shelter-care facility or other appropriate care pending the filing of a motion for modification of the dispositional order.

In all other cases, the court is to make a decision prior to the child being removed from the placement. Stability for the child is critical. Multiple placements can add to a child's trauma. A child should not be shuffled from home to home out of convenience for a foster parent, relative, or other person caring for the child.

Pursuant to paragraph (D), the court is to conduct a hearing, modify the dispositional order, or deny the motion sending the child back to the original placement specified in the dispositional order.

PART B(2). PERMANENCY HEARING

Rule 1606. Goal Change Motion.

A. Goal Change Motion.

1) The county agency may file a goal change motion if:

a) the child has been in placement for fifteen of the last twenty-two months;

b) the court finds that there is not substantial compliance with the reunification order and the return of the child is not best suited to the safety, protection, and physical, mental, and moral welfare of the child; or

c) the court has determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's guardian or to preserve and reunify the family need not be made or continue to be made.

2) A goal change is not necessary if:

a) the child is being cared for by a relative best suited to the physical, mental, and moral welfare of the child;

b) the county agency has documented a compelling reason for determining that filing a motion to terminate parental rights would not serve the needs and welfare of the child; or

c) the child's family has not been provided with necessary services to achieve the safe return to the child's guardian within the time frames set forth in the permanency plan.

B. *Contents of motion.* The motion shall contain:

1) the specific reasons averring why there has not been substantial compliance with the reunification order;

2) the goal change requested, which includes placing the child:

a) for adoption and the county agency will file for termination of parental rights pursuant to Pa.O.C.R., Rule 15.4;

b) with a legal custodian;

c) with a fit and willing relative; or

d) in another living arrangement intended to be permanent in nature which is approved by the court and where the county agency has documented a compelling reason explaining why options under (a) through (c) are not feasible; and

3) the plans to achieve the goal requested.

C. *Compliance with filing and service.* The requirements of Rule 1345 shall be followed.

D. *Hearing.* Before the goal can be changed, the court shall conduct a hearing within twenty-one days of the filing of the motion.

E. *Assignment of Judges' Role.* The President Judge of each judicial district may assign a dependency court judge to conduct orphans' court proceedings involving a dependent child.

Comment

Pursuant to paragraph (B), the motion should aver the specific reasons why reunification is no longer the goal for the child. The averments are to be supported by evidence that there has not been substantial compliance with the court order. Also, the motion is to state the goal change requested and the plans to achieve that goal.

Pursuant to paragraph (C), the guardian of the child is to be notified of the goal change. In most instances, the guardian is the parent of the child.

Pursuant to paragraph (D), the court is to conduct a hearing no later than twenty-one days from the filing of the motion.

It is best practice and more efficient to combine a goal change, which is part of the permanency hearing, with an involuntary termination of parental rights hearing. A President Judge may allow Common Pleas Judges to wear multiple hats during a proceeding by conducting a combined hearing on Dependency and Orphans' Court matters. See Pa.C.S. § 6351(i). See also *In Re Adoption of S.E.G.*, 587 Pa. 568, 901 A.2d 1017 (2006) where an involuntary termination occurred prior to the goal change by the county agency. See Comments to Rules 1512 and 1608 for further discussion of "concurrent planning."

There may be reasons why the county agency would want to file a goal change motion prior to involuntary termination in Orphans' Court, such as, the need for discontinuation of services.

Rule 1608. Permanency Hearing.

A. *Purpose and timing of hearing.* For every case, the court shall conduct a permanency hearing at least every six months for purposes of determining or reviewing:

1) the permanency plan of the child;

2) the date by which the goal of permanency for the child might be achieved; and

3) whether the placement continues to be best suited to the safety, protection, and physical, mental, and moral welfare of the child.

B. [*Court's findings.* At the permanency hearing, the court shall making findings consistent with 42 Pa.C.S. § 6351(f).

C.] *Recording*. The permanency hearing shall be recorded. [**The recording shall be transcribed:**

- 1) pursuant to a court order; or
- 2) when there is an appeal.

D.] C. *Evidence*.

1) Any evidence helpful in determining the appropriate course of action, including evidence that was not admissible at the adjudicatory hearing, shall be presented to the court.

2) If a report was submitted pursuant to Rule 1604, the court shall review and consider the report as it would consider all other evidence.

D. *Court's findings*.

1) Findings at all six-month hearings. At the permanency hearing, the court shall make the following findings:

- a) the appropriateness of the placement;
- b) the appropriateness, feasibility, and extent of compliance with the permanency plan developed for the child;
- c) the appropriateness and feasibility of the current placement goal for the child;
- d) the likely date by which the placement goal for the child might be achieved;
- e) whether reasonable efforts were made to finalize the permanency plan in effect;
- f) whether the county agency has made services available to the guardian, and if not, why those services have not been made available;
- g) the continued appropriateness of the permanency plan and the concurrent plan;
- h) whether the child is safe;
- i) if the child has been placed outside the Commonwealth, whether the placement continues to be best suited to the safety, protection, and physical, mental, and moral welfare of the child;
- j) the services needed to assist a child who is sixteen years of age or older to make the transition to independent living, including:
 - i) the specific independent living services or instructions that are currently being provided by the county child welfare agency or private provider;
 - ii) the areas of need in independent living instruction that have been identified by the independent living assessment completed pursuant to the Chafee Act;
 - iii) the independent living services that the child will receive prior to the next permanency review hearing;
 - iv) whether the child is in the least restrictive, most family-like setting that will enable him to develop independent living skills;
 - v) the efforts that have been made to develop and maintain connections with supportive adults regardless of placement type;
 - vi) whether the child is making adequate educational progress to graduate from high school or whether the child is enrolled in another specified educational program that will assist the child in achieving self-sufficiency;

vii) the job readiness services that have been provided to the child and the employment/career goals that have been established;

viii) whether the child has physical health or behavioral health needs that will require continued services into adulthood; and

ix) the steps being taken to ensure that the youth will have stable housing or living arrangements when discharged from care; and

k) any educational, health care, and disability needs of the child and the plan to ensure those needs are met.

2) Additional findings for fifteen of last twenty-two months. If the child has been in placement for fifteen of the last twenty-two months, the court may direct the county agency to file a "petition to terminate parental rights."

E. *Family Service Plan or Permanency Plan*. The county agency shall review the family service plan or permanency plan at least every six months. If the plan is modified, the county agency shall [**provide all**] follow the filing and service requirements pursuant to Rule 1345. The parties, and when requested, the court, shall be provided with the modified plan at least fifteen days prior to the permanency hearing.

Comment

See 42 Pa.C.S. §§ 6341, 6351.

Permanency planning is a concept whereby children are not relegated to the limbo of spending their childhood in foster homes, but instead, dedicated effort is made by the court and the county agency to rehabilitate and reunite the family in a reasonable time, and failing in this, to free the child for adoption. *In re M.B.*, 449 Pa. Super. 507, 674 A.2d 702 (1996) quoting *In re Quick*, 384 Pa. Super. 412, 559 A.2d 42 (1989).

To the extent practicable, the judge or master [**that**] who presided over the adjudicatory and original dispositional hearing for a child should preside over the permanency hearing for the same child.

[Under paragraph (B), the court is to make a finding consistent with 42 Pa.C.S. § 6351(f), in that the court is to determine all of the following: 1) the continuing necessity for and appropriateness of the placement; 2) the appropriateness, feasibility, and extent of compliance with the permanency plan developed for the child; 3) the extent of progress made toward alleviating the circumstances which necessitated the original placement; 4) the appropriateness and feasibility of the current placement goal for the child; 5) the likely date by which the placement goal for the child might be achieved; 6) whether reasonable efforts were made to finalize the permanency plan in effect; 7) whether the child is safe; 8) if the child has been placed outside the Commonwealth, whether the placement continues to be best suited to the safety, protection, and physical, mental, and moral welfare of the child; 9) the services needed to assist a child who is sixteen years of age or older to make the transition to independent living; and 10) if the child has been in placement for at least fifteen of the last twenty-two months or the court has determined that aggra-

vated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's guardian or to preserve and reunify the family need not be made or continue to be made, whether the county agency has filed or sought to join a motion to terminate parental rights and to identify, recruit, process, and approve a qualified family to adopt the child unless: a) the child is being cared for by a relative best suited to the physical, mental, and moral welfare of the child; b) the county agency has documented a compelling reason for determining that filing a motion to terminate parental rights would not serve the needs and welfare of the child; or c) the child's family has not been provided with necessary services to achieve the safe return to the child's guardian within the time frames set forth in the permanency plan.]

Pursuant to paragraph (A), courts are to conduct a permanency hearing no later than every six months. Courts are strongly encouraged to conduct more frequent permanency hearings, such as every three months, when possible.

The court may schedule a three-month hearing or conference. At the three-month hearing, the court should ensure that: 1) services ordered at the dispositional hearing pursuant to Rule 1512 are put into place by the county agency; 2) the guardian who is the subject of the petition is given access to the services ordered; 3) the guardian is cooperating with the county agency; and 4) a concurrent plan is developed if the primary plan may not be achieved.

A three-month hearing or conference is considered best practice for dependency cases and is highly recommended. The court should not wait until six months to find out if the case is progressing because time to achieve permanency is critical in dependency cases.

Every child should have a concurrent plan, which is a secondary plan developed if the primary permanency plan for the child cannot be achieved. See Comment to Rule 1512. For example, the primary plan may be reunification with the guardian. If the guardian does not substantially comply with the requirements of the court-ordered services, the county agency may look at subsidized legal guardianship as the concurrent plan. Because of time requirements, the concurrent plan is to be in place so that permanency may be achieved in a timely manner.

Pursuant to paragraph (D)(2), a "petition to terminate parental rights" is a term of art used to describe the motion terminating parental rights. This does not refer to the "petition" as defined in Pa.R.J.C.P. 1120. The county agency is to file a goal change motion under Rule 1606 and move for termination of parental rights. Pursuant to Rule 1606 (A)(2), a goal change motion is discretionary if: a) the child is being cared for by a relative best suited to the physical, mental, and moral welfare of the child; b) the county agency has documented a compelling reason for determining that filing a motion to terminate parental rights would not serve the needs and welfare of the child; or c) the child's family has not been provided with necessary services to achieve the safe return to the child's guardian within the time frames set forth in the permanency plan.

The court is to move expeditiously towards permanency. A goal change motion, pursuant to Rule 1606, may be filed at any time.

In addition to the permanency hearing contemplated by this rule, courts may also conduct additional and/or more frequent intermittent review hearings or status conferences, which address specific issues based on the circumstances of the case, and which assist the court in ensuring timely permanency.

See Comment to Rule 1606 for combining the permanency hearing with a termination of parental rights hearing.

For family service plan requirements, see 55 Pa. Code §§ 3130.61 and 3130.63.

See 42 U.S.C.A. § 675 (5)(A)—(H) for development of a transition plan pursuant to paragraph (D)(1)(j).

See Rule 1136 regarding *ex parte* communications.

Official Note: Rule 1608 adopted August, 21, 2006, effective February 1, 2007. Amended December 18, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1608 published with the Court's Order at 36 Pa.B. 5571, 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1608 published with the Court's Order at 40 Pa.B. 21, 23 (January 2, 2010).

Rule 1609. [**Court Order of**] Permanency Hearing Orders [**Determinations**].

A. *Findings.* After every permanency hearing, the court shall issue a written order, which provides:

1) whether the permanency plan is best suited to the safety, protection, and physical, mental, and moral welfare of the child, and

2) findings made pursuant to Rule 1608(D).

B. [**Determination made.** The court's order shall reflect a determination made consistent with 42 Pa.C.S. § 6351(f.1).

C.] *Transfer of legal custody.* If the court decides to transfer permanent legal custody of the child to a person found to be qualified to provide care, shelter, and supervision of the child, the permanency order shall include:

1) the name and address of such person unless disclosure is prohibited by court order;

2) the limitations of the order; and

3) any temporary visitation rights of parents.

[**D.**] C. *Orders concerning guardian.* The court shall include any conditions, limitations, restrictions, and obligations in its permanency order imposed upon the guardian.

[**Comment**

Under paragraph (B), the court's order is to reflect whether: 1) If the court finds that return of the child is best suited to the safety, protection, and physical, mental, and moral welfare of the child, the court shall specify: a) the conditions of the return of the child; and b) the projected date of the return of the child; or 2) If the court finds that the return of the child is not best suited to the safety,

protection, and physical, mental, and moral welfare of the child, the court shall determine if and when the child will be placed: a) for adoption and the county agency will file for termination of parental rights pursuant to Pa.O.C.R., Rule 15.4; b) with a legal custodian; c) with a fit and willing relative; or d) in another living arrangement intended to be permanent in nature which is approved by the court and where the county agency has documented a compelling reason explaining why options under (a) through (c) are not feasible.]

Official Note: Rule 1609 adopted August, 21, 2006, effective February 1, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1609 published with the Court's Order at 36 Pa.B. 5571, 5599 (September 2, 2006).

Rule 1613. Termination of Court Supervision.

A. *Concluding Supervision.* Any party, or the court on its own motion, may move for the termination of supervision when court-ordered services from the county agency are no longer needed and:

1) the child has remained with the guardian and the circumstances which necessitated the dependency adjudication have been alleviated;

2) the child has been reunified with the guardian and the circumstances which necessitated the dependency adjudication and placement have been alleviated;

3) the child has been placed with a ready, willing, and able parent who was not previously identified by the county agency;

4) the child has been adopted and services from the county agency are no longer needed;

5) the child has been placed in the custody of a permanent legal custodian and services from the county agency are no longer needed;

6) the child has been placed in the custody of a fit and willing relative and services from the county agency are no longer needed;

7) the child has been placed in another living arrangement intended to be permanent and services from the county agency are no longer needed;

8) the child has been adjudicated delinquent and services from the county agency are no longer needed;

9) the child has been emancipated by the court;

10) the child is eighteen years old and refusing further services from the county agency **after a hearing pursuant to paragraph (E)**;

11) the child has died;

12) a court in another county of this Commonwealth has accepted jurisdiction; or

13) a court in another state has accepted jurisdiction.

B. *Ready, willing, and able parent.* When services from the county agency are no longer necessary because the court has determined that the child is not dependent pursuant to paragraph (A)(3) because a non-custodial parent has been found by the court to be able and available, the court shall enter an order awarding custody to that parent and the court order shall have the effect and be docketed as a decision entered pursuant to Pa.R.C.P.

C. *Objection.* Any party may object to a motion under paragraph (A) and request a hearing.

D. *Hearing.* If objections have been made under paragraph (C), the court shall hold a hearing and give each party an opportunity to be heard before the court enters its final order.

E. *Children eighteen years of age or older.*

1) Before the court can terminate its supervision of a child who is eighteen years of age or older, a hearing shall be held within ninety days of the child's eighteenth birthday.

2) The child shall have the opportunity to make decisions about the transition plan and confer with the county agency about the details of the plan. The transition plan shall, at a minimum, include:

a) the specific plans for housing;

b) a description of the child's source of income;

c) the specific plans for pursuing educational or vocational training goals;

d) the child's employment goals and whether the child is employed;

e) a description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the child;

f) a description of any available programs that would provide mentors or assistance in establishing positive adult connections;

g) verification that all vital identification documents and records have been provided to the child; and

h) any other needed support services.

3) At the hearing, the court shall approve a transition plan for the child.

F. *Cessation of services.* When all of the above listed requirements have been met, the court may discharge the child from its supervision and close the case.

Comment

For procedures on motions, see Rule 1344. For procedures on the dispositional order, see Rule 1515.

For guidelines under paragraph (A), see 42 Pa.C.S. §§ 6301(b) & 6351(f.1).

Pursuant to paragraph (A)(8), if a child has been adjudicated delinquent, the court may terminate court supervision unless dependency is necessary for placement. *In re Deanna S.*, 422 Pa. Super. 439, 619 A.2d 758 (1993). The court may also decide to retain dependency jurisdiction regardless of the delinquency adjudication because the child still needs dependency services.

If dependency issues have not been resolved, the case should be kept open and services ordered. The court should ensure that services are not discontinued because the child was adjudicated delinquent. The county agency and the juvenile probation are to collaborate on the case and resolve all outstanding issues. If a child is in a delinquency placement, the county agency is to ensure services are in place when the child is released.

For procedures on emancipation pursuant to paragraph (A)(9), see *Berks County Children and Youth Services v. Rowan*, 428 Pa. Super. 448, 631 A.2d 615 (1993). See also, 22 Pa. Code § 11.11, 55 Pa. Code § 145.62.

Pursuant to paragraph (A)(10), a child who was adjudicated dependent prior to reaching the age of eighteen and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, may remain in the course of instruction or treatment until the age of twenty-one. 42 Pa.C.S. § 6302. *See also*, 55 Pa. Code §§ 3130.5 & 3130.87; *In re S.J.*, 906 A.2d 547 (Pa. Super. Ct. 2006).

The court may not terminate jurisdiction solely because the dependent child is a runaway. *In re Deanna S.*, 422 Pa. Super. 439, 619 A.2d 758 (1993).

A child whose non-custodial parent is ready, willing, and able to provide adequate care for the child may not be found dependent. *In re M.L.*, 562 Pa. 646, 757 A.2d 849 (2000). *See* paragraph (B).

Pursuant to 42 Pa.C.S. § 6351(a)(2.1), a court may transfer permanent legal custody to a person found by the court to be qualified to receive and care for the child. 42 Pa.C.S. § 6351(a)(2.1). *See also Justin S.*, 375 Pa. Super. 88, 543 A.2d 1192 (1988).

Pursuant to paragraph (E)(2), the county agency is to assist the child and provide all the support necessary in developing a transition plan. *See* 42 U.S.C.A. § 675 (5)(A)—(H).

Pursuant to paragraph (E)(3), the court is to approve a transition plan that is suitable for the child and that has been personalized at the direction of the child.

Official Note: Rule 1613 adopted August, 21, 2006, effective February 1, 2007. Amended July 29, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1613 published with the Court's Order at 36 Pa.B. 5571, **5599** (September 2, 2006).

Final Report explaining the amendments to Rule 1613 published with the Court's Order at 39 Pa.B. **4887**, 4889 (August 15, 2009).

Explanatory Report

Rules 136 and 1136—Ex Parte Communication

Instead of prohibiting *ex parte* communication in several rules, such as Rule 1512, the Committee is recommending one rule for each set of proceedings, delinquency and dependency, that will govern *ex parte* communication for all hearings.

Rule 1151—Assignment of Guardian ad litem and Counsel

It was brought to the Committee's attention that in some judicial districts, "guardians" were appearing at hearings without an attorney. Rule 1120 defines guardian as any parent, custodian, or other person designated by the court to be a temporary guardian for purposes of a proceeding. The proposed Comment enforces the need for the court to inform all parties of the right to counsel.

Rule 1512 and 1515—Dispositional Hearing and Dispositional Order

The duties of the court were added to paragraph (C) of Rule 1512. The Court's findings in Rule 1515 were moved to Rule 1512(D). Additional findings were also added in Rule 1512(D) to provide a checklist of items that should be covered by the court at the dispositional hearing.

It is important to note the addition that the permanency plan must be addressed at the dispositional hearing. The permanency plan should consist of two plans or goals. The primary plan is the plan that the county agency is striving to achieve. However, if the primary plan is not achieved, services for the secondary plan must already be set forth and be able to be obtained by the strict timelines in achieving permanency. This is called concurrent planning, which is essential to ensure permanency is achieved for the child.

In several instances, reunification will be the primary goal. However, if reunification cannot be obtained, the county agency must have the back-up plan, such as subsidized legal guardianship or adoption.

Rule 1603—Modification of Dependent Child's Placement

This new rule is being proposed because judges are not being notified about a change in a dependent child's placement until weeks, even months after a move. Many times, the judge is notified of a change at the permanency hearing. Although the child is placed in the custody of the county agency, the judge authorizes placement of a child by court order.

Rule 1603 outlines the procedure for seeking approval of a change in a child's placement. The court must be notified prior to the child being moved. Only in an emergency when a judge cannot be reached, the county agency may temporarily place a child in a shelter-care facility or other appropriate care. However, the county agency immediately must alert the judge of the change made during the emergency. This can be accomplished by leaving a message on the judges' phone. Then, the county agency must file a motion for the change within twenty-four hours of the move of the child.

The motion is to include an averment stating whether each party concurs or objects to the proposed modification. This will allow the judge to decide whether a hearing is necessary. Because there is a twenty-four hour requirement, if a party does not respond to your request for a concurrence or objection, simply aver the party was unable to be reached.

If a party objects to the proposed modification, objections shall be filed within three days of the filing of the motion for modification of the child's placement.

Rule 1606—Goal Change Motion

This new rule sets forth when a goal change motion should be filed. It also allows the President Judge of each judicial district to assign a dependency court judge to conduct Orphans' Court proceedings involving a dependency child.

It is best practice to have one judge hear all the issues involved in a case from start to finish. This includes combining hearings on goal changes and involuntary termination of parental rights.

Rule 1608—Permanency Hearing

The proposed additions to this rule require a permanency hearing at least every six months. The Comment to this Rule proposes a three-month hearing as best practice. This ensures that services are in place and that the guardian has had time to comply prior to the required six-month hearing.

Additionally, the Rule provides a checklist for the Court's findings in paragraph (D). Paragraph (D)(1)(k) sets forth the required findings for transitioning a child into independently living.

The Comment discusses concurrent planning and combining hearings. A permanency plan should encompass two plans or goals. See the discussion under Rules 1512 and 1515 for concurrent planning.

Combining hearings are also cost-effective and expeditious to the permanency plan. Several judicial districts have judges hear a goal change motion and an involuntary termination of parental rights together. The Juvenile Act allows a dependency court judge to be assigned to Orphans' Court to hear matters involving dependent children. See Pa.C.S. § 6351(i).

Rule 1609—Permanency Hearing Orders

The "determinations made" paragraph is being eliminated because those determinations should be made at the permanency hearing, as reflected by the new proposed court's findings section in Rule 1608.

Rule 1613—Termination of Court Supervision

The Comment adds that the court should not discontinue services for a dependent child because the court has found the child delinquent. The county agency and the juvenile probation office should work together to provide solutions for the child. In addition, services are to be ready when a dependent child is released from a delinquency placement so there is a smooth transition.

Under the new proposed additions in paragraph (E), specific issues must be addressed in the transition plan before the court can terminate court supervision for a child eighteen years of age or older.

[Pa.B. Doc. No. 10-761. Filed for public inspection April 30, 2010, 9:00 a.m.]

Title 255—LOCAL COURT RULES

DAUPHIN COUNTY

In Re: Appointment of Deputy District Court Administrator—Orphans Court as Designee to Receive Reports Regarding Adjustment, Progress and Condition of a Child Per Pa.R.J.C.P. 1604(B) and 42 Pa.C.S. § 6336.1(b); No. AO-03-2010

Order

And Now, this 12th day of January, 2010, *It Is Hereby Ordered That* the Deputy District Court Administrator—Orphans Court is named as the designee to receive, file, and distribute reports regarding a child's adjustment, progress and condition pursuant to Pa.R.J.C.P. 1604(B) and 42 Pa.C.S. § 6336.1(b).

By the Court

RICHARD A. LEWIS,
President Judge

[Pa.B. Doc. No. 10-762. Filed for public inspection April 30, 2010, 9:00 a.m.]

ERIE COUNTY

In Re: Erie County Juvenile Probation Policy Regarding the Administration of the Restitution Fund; No. AD 17-2010

Administrative Order

And Now to-wit this 31st day of March 2010, pursuant to 42 P.S. § 6304.1(b), § 6323(f), § 6340(c.1), § 6352(a)(5), § 9728, § 9730, and § 9730.1, it is hereby *Ordered* that the above-captioned guidelines are approved and adopted, effective immediately.

By the Court

ERNEST J. DiSANTIS, Jr.,
President Judge

ERIE COUNTY JUVENILE PROBATION POLICY REGARDING THE ADMINISTRATION OF THE RESTITUTION FUND

The Erie County Juvenile Probation Department in conjunction with the Erie County Clerk of Courts shall adhere to the following guidelines to maintain a Restitution Fund:

ESTABLISHMENT OF A RESTITUTION FUND

A Restitution Fund (hereafter designated "The Fund") shall be established pursuant to section 6352(a)(5) of the Juvenile Act for the purpose of ordering and collecting reasonable amounts of money as fines, costs, fees or restitution. Restitution shall be ordered and collected for the purpose of reimbursing crime victims for financial losses resulting from delinquent acts.

GENERATION OF FUNDS

1. Failure To Comply Cases

(a) Except for Restitution, all of the money received from a juvenile alleged to be delinquent for failing to comply with a lawful sentence imposed for a summary offense and whose case has been warned, counseled and closed shall be deposited into The Carl E. Anderson Memorial Fund as set forth in its policies and procedures (see APPENDIX B).

(b) All of the money received from a juvenile alleged to be delinquent for failing to comply with a lawful sentence imposed for a summary offense and whose case **has not** been warned, counseled and closed shall be deposited into The Fund to be disbursed by The Erie Earn-It Program, Inc. via the Victim Review Board unless it is restitution (see "collection of Funds 1.b." below).

2. Informal Cases

The terms and conditions of an Informal Adjustment may include a contribution by the child to The Fund for restitution, community service hours and/or positive drug screens.

Cases that are "warned, counseled and case closed" may include a contribution by the child to The Fund for restitution.

3. Consent Decrees

The terms and conditions of a Consent Decree may include a contribution by the child to The Fund for restitution, court costs, fines, fees, community service hours and/or positive drug screens.

4. Adjudicated Case

The terms and conditions of a disposition following an adjudication of delinquency may include a contribution by

the child to "The Fund" for restitution, court costs, fines, fees, community service hours and/or positive drug screens.

COLLECTION OF FUNDS

1. General Rule—

(a) All fees collected for positive drug screens shall be processed through the Erie Earn-It Program, Inc. as set forth in the ERIE COUNTY JUVENILE PROBATION MONEY COLLECTION AND RECEIPTING POLICY AND PROCEDURE (see APPENDIX A).

(b) All money collected for restitution and/or community service hours for informal cases and other cases without a docket number shall be processed through the Erie Earn-It Program, Inc. as set forth in the ERIE COUNTY JUVENILE PROBATION MONEY COLLECTION AND RECEIPTING POLICY AND PROCEDURE (see APPENDIX A).

(c) All money collected for restitution, court costs, fines, fees and/or community service hours on cases with docket numbers shall be processed through the Erie County Clerk of Courts as set forth in the ERIE COUNTY JUVENILE PROBATION MONEY COLLECTION AND RECEIPTING POLICY AND PROCEDURE (see APPENDIX A).

2. Specific Collection Policies—

The specifics regarding the collection of restitution, court costs, fines, fees and/or community service hours are set forth in the ERIE COUNTY JUVENILE PROBATION MONEY COLLECTION AND RECEIPTING POLICY AND PROCEDURE (see APPENDIX A).

DISBURSEMENT OF FUNDS

1. Restitution

(a) 100% of all payments by clients for informal cases and other cases without a docket number shall be applied first to individual victims of delinquent acts. Distribution of all other restitution, court costs, fines, fees and/or community service hours shall be according to the Juvenile Act 42 PA § 9728(g.1).

(b) Monies collected on non-docketed cases shall be disbursed to victims on a monthly basis by The Erie Earn-It Program, Inc.

(c) Monies collected for docketed cases shall be disbursed per the Erie County Clerk of Courts state mandated procedures.

2. Court Costs and Fees

All Court Costs and Fees shall be disbursed per the Erie County Clerk of Courts state mandated procedures.

3. Community Service Hours

(a) General—

The Erie Earn-It Program, Inc. shall be the sole administrator of the community service hour money collected.

1.) Docketed Cases—

The Clerk of Courts shall issue a check once monthly to The Erie Earn-It Program, Inc. for community service monies collected for donations to the Victim Review Board.

2.) Non-docketed cases—

The administrator of the non-docketed checking account shall issue a check once monthly to The Erie

Earn-It Program, Inc. for community service monies collected for donations to the Victim Review Board.

(b) Disbursement of Erie Earn-It Program, Inc. Community Service Funds—

All Community Service Fund money shall be disbursed through the Erie Earn-It Program, Inc., Victim Review Board for the purpose of reimbursing crime victims for financial losses resulting from delinquent behavior. This disbursement shall be per the policies and procedures of the Erie Earn-It Program, Inc., Victim Review Board (see APPENDIX C).

4. Positive Drug Screen Funds

All Positive Drug Screen Funds shall be disbursed by the Erie Earn-It Program, Inc. for necessary extraneous Juvenile Probation expenses not covered by the Erie County Juvenile Probation Budget as determined by the Chief Juvenile Probation Officer and the District Court Administrator.

5. The Carl E. Anderson Memorial Fund

All of the money received from a juvenile alleged to be delinquent for failing to comply with a lawful sentence imposed for a summary offense and whose case has been warned, counseled and closed shall be deposited directly into The Carl E. Anderson Memorial Fund and disbursed as set forth in its policies and procedures (see APPENDIX B).

FUND REPORTING

1. Monthly reporting

Report number 1069 shall be generated monthly from the CPCMS System. Said report shall include, but not be limited to, the dates and amounts of all payments made by Juvenile Probation Clients, the docket numbers of the cases to which payments were applied, and the names of the Juvenile Probation Clients who made said payments. This report shall also include a breakdown of totals paid by category type.

The Juvenile Probation Office shall generate a report that will show the aggregate collected per month by specific cost, fee or restitution category type for the calendar year. The monthly totals shall also reflect collections by general category type. This report shall also show totals to date and average totals to date.

All monthly reports shall be presented to the President Judge, the Administrative Juvenile Court Judge, the Court Administrator and the Chief Juvenile Probation Officer.

2. Annual Reporting

The annual totals collected by the Juvenile Probation Department as recorded on the aggregate monthly report shall be presented to the President Judge, the Administrative Juvenile Court Judge, the Court Administrator and the Chief Juvenile Probation Officer at the end of the calendar year. A breakdown of collections for the calendar year shall be presented to the Court Administrator for inclusion in the Erie County Court of Common Pleas Annual Report. Such report is made available to the County Administration and to the public.

AUDITING OF "THE FUND"

1. Monies deposited to The Fund through the Erie Earn-It Program, Inc. shall be subject to audits according to the policies of its Board of Directors, but not less than once every five years.

2. Monies deposited into the Carl E. Anderson Memorial Fund shall be subject to an annual audit.

3. Monies deposited to The Fund through the Erie County Clerk of Courts Office shall be subject to audits as required by State and Local rules.

APPENDIX A

ERIE COUNTY JUVENILE PROBATION MONEY COLLECTION AND RECEIPTING POLICY AND PROCEDURE

Chain of evidence: Money should be handled as if it were evidence. Chain of evidence procedures should be followed and there should always be a clear and concise paper trail.

A. GENERAL POLICIES:

1. Whenever **any** payment is received a receipt must be written, regardless of the type of payment. Receipts must be written for cash, check or any other type of payment. Credit cards may be used to make payments for any money collected by the Clerk of Courts. However, these payments must be made, by the client or his family, at the Clerk of Courts Office and no one in Juvenile Probation is authorized to accept credit card payments.

2. Only staff members who have been issued a Juvenile Probation receipt book are authorized to take payments from clients. All monies collected should be turned over to the appropriate person or department within **3 business days** after you collect the money. The Clerk of Courts can now enter payments into escrow. However, if there is a problem with this procedure or with Earn-It being able to take a payment, the money should be turned over to the supervisor in charge of the safe.

3. Any staff member who takes money must be the one to take it to the Clerk of Courts or The Earn-It Coordinator. However, if there is a problem with a case, the money may be given to the supervisor in charge of the safe at which time it becomes the responsibility of said supervisor. Under no circumstances should money be given to a student to take to the Clerk of Courts. The term student means either a work-study or student intern.

4. There are three safes for locking up money, one at each community center and one in a supervisor's office. The only payments to be locked in the Community site safes are those taken by the secretary at the site. All other payments are to be kept by the staff member who took it and brought to the courthouse. If a staff member needs to lock a payment in a safe, it should be locked in the supervisor's safe. Each safe has a log for tracking money stored there. This log must be filled out each time a payment is locked in the safe and retrieved from the safe.

5. Receipt books are just like cash drawers. No one is to use another's receipt book. If someone asks you to use your book, you should write the receipt for that person and then you are responsible for taking the money to the Clerk of Courts or the Earn-It Coordinator.

B. The following is the procedure for writing receipts:

The receipts are to be written only in Juvenile Probation receipt books and in triplicate. These receipts will include the amount paid (this will be like a check-written and the numbers printed), type of payment (cash, check, money order, etc.) date, client's name, what cost is being paid (Rest, Vol.Hrs., etc.) and the docket number. It is not necessary to have the docket number on the receipt that is given to the client, **however the docket number**

must be included on the yellow receipt when the money is taken to the Clerk of Courts Office. Please remember that most cases have more than one docket number and you must provide the proper docket number for the Clerk of Courts. The staff member that takes the payment must sign the receipt and delineate who the assigned Probation officer is.

In regards to the line marked "Received from," the name of whoever hands you the payment must be written on this line.

C. The following is the procedure for the distribution of receipts:

1. The top copy to the client.

2. The second copy should be distributed as follows:

(a) NON-DOCKETED CASES & POSITIVE DRUG SCREENS

If the payment is for restitution, fines, court costs or volunteer hours on Non-Docketed Cases OR for Positive Drug Screens (for docketed or non-docketed cases) the second copy should be taken to the Earn-It coordinator when the payment is turned in. Again, this money should be taken to the Earn-It Coordinator within 3 working days. If there is a problem with Earn-It taking the money, then the money and second copy of the receipt should be given to the supervisor in charge of the safe to be locked up.

(b) CASES WITH A DOCKET NUMBER

If the payment is for restitution, fines, court costs or volunteer hours for cases with a Docket Number, the second copy should be taken to the Clerk of Courts when the payment is turned in. Ask the Clerk of Courts to stamp, initial and date the yellow receipt and then it should go into the client's file. Again, this money should be taken to the Clerk of Courts Office within 3 working days. If there is a problem with the Clerk of Courts taking the money, then the money and second copy of the receipt should be given to the supervisor in charge of the safe to be locked up.

3. The third copy stays in the book as a reference for you when you are in the field.

D. Make Checks Payable To:

1. NON-DOCKETED CASES & POSITIVE DRUG SCREENS

Any payments taken for Non-Docketed Cases or for Positive Drug Screens are to be given to the Earn-It Coordinator. Therefore checks for Non-Docketed Cases must be made out to "**Erie Earn-It Program, Inc. NDC**". Since Non-Docketed Case money does not go to the same place as other payments, Non-Docketed Case payments must be put on a separate receipt from payments that go to the Clerk of Courts Office.

2. CASES WITH A DOCKET NUMBER

All payments for cases with Docket Numbers must be taken to the Clerk of Courts Office. Therefore checks for these items must be made out to the "**Erie County Clerk of Courts**". These must be on a separate receipt from payments for Non-Docketed Cases.

F. Volunteer Hours

The current rate for buying back community service hours is \$5.00 per hour. Effective 1/1/2004, we will no longer accept community service hour money for outside charities. All money collected for community service hours is to be donated to the Victim Review Board.

APPENDIX B

**The Carl E. Anderson Memorial Fund
POLICIES AND PROCEDURES**

I The Fund

a) All of the money received from a juvenile alleged to be delinquent for failing to comply with a lawful sentence imposed for a summary offense or whose case has been warned, counseled and closed shall be deposited directly into The Carl E. Anderson Memorial Fund.

b) This money is kept in a savings and checking account at The Erie Federal Credit Union. Carl Anderson's widow, Kate Arthur, is the main signatory on the account with the two Fund Managers being secondary signatories. The Fund shall have a maximum limit of \$4,000.00. If this limit is surpassed at the end of any given month, the Fund Managers shall write a check for the overage and shall deliver said check to the Earn-It Coordinator for deposit into the Victim Review Board.

c) This money is distributed to clients with special needs as approved by an appointed group of staff members. Currently Waneda McCullough and Robert Blakely serve as the Fund Managers and as advisors due to their capacity as Fund Managers. Dorene Wilder, Gale Ward, Kathy Smith, Dave Gianoni and Tim Antolik make up the board that issues the approvals or denials for expenditures. A simple majority agreement of these five members is all that is necessary for an approval or denial.

d) All donations and distributions are reported to Kate Arthur.

II Deposits into the Fund**a) Failure To Comply Cases**

All of the money received from a juvenile alleged to be delinquent for failing to comply with a lawful sentence imposed for a summary offense or whose case has been warned, counseled and closed shall be deposited directly into The Carl E. Anderson Memorial Fund. The intake officer will then make a copy of the check or money order and stamp it as received and place in clients file. The intake officer shall turn money over to a Fund Manager within three business days. The fund manager will deposit the check or money order into The Carl E. Anderson Memorial Fund.

b) Private Donations

1) Occasionally private donations are made directly to the Fund through the Credit Union. One of the Fund Managers is generally notified by phone by the Credit Union of these deposits. The Fund Managers can also keep track of this activity through Internet Banking.

2) Occasionally private donations are made to the Fund through Juvenile Probation. One of the Fund Managers will make these deposits.

III Distribution of Funds**a) General**

The two joint signatories on the account are the Fund Managers and they handle the physical distribution of funds.

All expenditures must be pre-approved by the committee and the checks require the signatures of both Fund Managers.

b) Procedure for distribution

1) Staff members submit written requests for grants from the Fund along with a reasonable explanation to the Fund Managers.

2) The Managers then present these requests to the board that issues the approvals for expenditures.

3) Once approved, a check is written by the Fund Managers and presented to the Community Justice Officer or Probation Officer so that a staff member may supervise the purchase. Receipts for expenditures are returned to the Fund Managers. Any unspent monies are returned to the Managers and deposited back into the checking account.

IV Maintaining the account

All bank statements are sent to the main signatory on the account—Kate Arthur. Due to this Credit Union procedure, no statements are sent to the Fund Managers. On-line banking has been set up for the Fund Managers so that they may ascertain the status of the account at any time as well as keep the accounts in balance on a monthly basis.

V Audits

The Juvenile Probation Accountant will conduct an annual audit.

[Pa.B. Doc. No. 10-763. Filed for public inspection April 30, 2010, 9:00 a.m.]

FAYETTE COUNTY

In Re: Fayette County Local Rules of Civil Procedure 202 and 203; Civil Division; No. 897 of 2010 GD

Order

And Now, this 9th day of April, 2010, pursuant to Pennsylvania Rule of Civil Procedure 239, it is hereby ordered that Fayette County Local Rules of Civil Procedure 202 and 203 are rescinded, effective 30 days after publication in the *Pennsylvania Bulletin*.

The Prothonotary is directed as follows:

(1) Seven certified copies of this order shall be filed with the Administrative Office of Pennsylvania Courts.

(2) Two certified copies and diskette of this order shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One certified copy of this order shall be sent to the State Civil Procedural Rules Committee.

(4) One certified copy shall be sent to the Fayette County Law Library and the Editor of the *Fayette Legal Journal*.

By the Court

GERALD R. SOLOMON,
President Judge

[Pa.B. Doc. No. 10-764. Filed for public inspection April 30, 2010, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Collection Fee and Late Payment Penalty for 2010-2011 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 2010-2011 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. 10-765. Filed for public inspection April 30, 2010, 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

Bank Code A.

595 Abacus Federal Savings Bank
374 **Abington Bank**
2 Adams County National Bank
572 **Affinity Bank of Pennsylvania**
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 **American Bank**
502 American Eagle Savings Bank
615 Americhoice Federal Credit Union
116 **Ameriserv Financial**
377 Apollo Trust Company
568 Arc Federal Credit Union

Bank Code B.

558 Bancorp Bank (The)
485 Bank of America
415 Bank of Landisburg
519 Beaver Valley Federal Credit Union
501 BELCO Community Credit Union
397 **Beneficial Bank**
582 Berkshire Bank
5 BNY Mellon, N.A.
392 **Brentwood Bank**
495 Brown Brothers Harriman & Co.
161 Bryn Mawr Trust Company
156 Bucks County Bank

Bank Code C.

540 C & G Savings Bank
480 Cambria County Federal S&Loan Assoc.
622 Carrollton Bank
459 Centra Bank
136 **Centric Bank**
394 **Charleroi Federal Savings Bank**
623 Chemung Canal Trust Company
599 Citibank N.A.
238 Citizens & Northern Bank
561 Citizens Bank of PA
420 Citizens National Bank, Meyersdale
206 Citizens Savings Bank
602 **City National Bank of New Jersey**
576 Clarion County Community Bank
16 **Clearfield Bank & Trust Co.**
591 Clearview Federal Credit Union
23 CNB Bank
354 Coatesville Savings Bank
603 Colonial American Bank
223 Commercial Bank & Trust of Pennsylvania
310 Community Bank & Trust Company
21 **Community Bank, N.A.**
533 Community First Bank
430 Community National Bank of Northwestern PA
132 Community State Bank of Orbisonia
170 **Conestoga Bank**
590 Continental Bank
380 County Savings Bank

Bank Code D.

339 Dime Bank (The)
239 DNB First, National Assoc.
27 Dollar Bank
423 Dwelling House S&L Assoc.

Bank Code E.

357 Eagle National Bank
569 Earthstar Bank
424 East Penn Bank
597 **East River Bank**
340 East Stroudsburg Savings Association
500 Elderton State Bank
567 Embassy Bank
541 Enterprise Bank
28 Ephrata National Bank (The)
616 ErieBank, a division of CNB Bank
383 **ESB Bank, F.S.B.**
601 **Esquire Bank**
552 Eureka Bank

Bank Code F.

478 Farmers & Merchants Bank of Western PA, N.A.
 31 Farmers & Merchants Trust Company
 205 Farmers National Bank of Emlenton
 311 Fidelity Bank
 34 Fidelity Deposit & Discount Bank
 343 **Fidelity Savings & Loan of Bucks County**
 583 **Fifth Third Bank**
 174 First Citizens National Bank
 191 First Columbia Bank & Trust Co.
 539 **First Commonwealth Bank**
 551 First Cornerstone Bank
 369 First Federal of Bucks County
 504 First Federal S&Loan Assoc. of Greene County
 388 **First Federal Savings Bank In Monessen**
 525 First Heritage Federal Credit Union
 228 First Keystone Bank
 42 **First Keystone National Bank**
 371 First Liberty Bank & Trust
 263 FirstMerit Bank, N.A.
 51 **First National Bank & Trust Co. of Newtown (The)**
 52 **First National Bank of Chester County**
 421 First National Bank of Fredericksburg
 417 First National Bank of Lilly
 418 First National Bank of Liverpool
 43 First National Bank of Marysville
 46 First National Bank of Mercersburg
 419 First National Bank of Mifflintown
 198 **First National Bank of Minersville**
 426 First National Bank of Palmerton
 48 First National Bank of Pennsylvania
 427 First National Bank of Port Allegany
 175 **First National Community Bank**
 549 First National Community Bank (Midland)
 626 First Niagara Bank
 604 First Priority Bank
 592 **First Resource Bank**
 40 First Savings Bank of Perkasie
 349 **First Star Savings Bank**
 158 First Summit Bank
 408 First United National Bank
 151 Firstrust Bank
 416 Fleetwood Bank
 493 **FNB Bank, N.A.**
 291 Fox Chase Bank
 241 Franklin Mint Federal Credit Union
 612 **Franklin Security Bank**
 58 **Fulton Bank**

Bank Code G.

588 Gateway Bank of Pennsylvania
 499 Gratz National Bank (The)
 593 **Graystone Tower Bank**
 498 Greenville Savings Bank

Bank Code H.

402 **Halifax National Bank**
 244 Hamlin Bank & Trust Co.
 362 Harleysville Savings Bank
 363 Hatboro Federal Savings
 463 Haverford Trust Company (The)
 410 Herndon National Bank (The)
 559 Home Savings & Loan Co.
 68 Honesdale National Bank (The)
 350 HSBC Bank of USA
 364 **Huntingdon Valley Bank**

605 Huntington National Bank
 608 **Hyperion Bank**

Bank Code I.

365 Indiana First Savings Bank
 575 Integrity Bank
 557 **Investment Savings Bank**
 526 Iron Workers Bank

Bank Code J.

70 Jersey Shore State Bank
 127 Jim Thorpe National Bank
 488 Jonestown Bank and Trust Co.
 72 Juniata Valley Bank (The)

Bank Code K.

414 Kish Bank

Bank Code L.

74 **Lafayette Ambassador Bank**
 554 Landmark Community Bank
 78 Luzerne National Bank

Bank Code M.

361 M & T Bank
 454 Mainline National Bank
 386 Malvern Federal Savings Bank
 412 Manor Bank
 510 Marion Center Bank
 387 Marquette Savings Bank
 81 Mars National Bank
 367 Mauch Chunk Trust Company
 619 MB Financial Bank
 555 Mercer County State Bank
 192 Merchants Bank of Bangor
 610 Meridian Bank
 18 Metro Bank
 294 Mid Penn Bank
 511 Mifflin County Savings Bank
 276 **Mifflinburg Bank & Trust Company**
 617 Milestone Bank
 457 Milton Savings Bank
 345 Miners Bank
 614 Monument Bank
 596 **Morebank**
 484 **Muncy Bank & Trust Company**

Bank Code N.

433 National Bank of Malvern
 88 National Penn Bank
 347 Neffs National Bank
 372 Nesquehoning Savings Bank
 536 New Century Bank
 434 New Tripoli Bank
 15 **Nextier Bank**
 492 North Penn Bank
 439 **Northumberland National Bank**
 93 Northwest Savings Bank
 546 **Nova Bank**

Bank Code O.

489 OMEGA Federal Credit Union
 94 Orrstown Bank

Bank Code P.

598 **Parke Bank**
 267 Parkvale Bank
 584 Parkview Community Federal Credit Union
 580 **Penn Liberty Bank**
 97 Penn Security Bank & Trust Company
 168 Pennstar Bank
 447 Peoples National Bank
 491 Peoples State Bank (The)
 99 PeoplesBank
 556 Philadelphia Federal Credit Union
 448 Phoenixville Federal Bank & Trust
 620 Pittsburgh Central Federal Credit Union
 79 PNC Bank
 528 Polonia Bank
 449 Port Richmond Savings
 451 Progressive Home Federal
 624 Province Bank
 456 Prudential Savings Bank
 618 Public Savings Bank

Bank Code Q.

107 QNB Bank
 560 Quaint Oak Savings Bank

Bank Code R.

452 **Reliance Bank**
 220 Republic First Bank
 208 Royal Bank America

Bank Code S.

153 S&T Bank
 464 Scottdale Bank & Trust Company
 460 Second Federal S&L Assoc. of Philadelphia
 516 Sentry Federal Credit Union
 458 Sharon Savings Bank
 462 Slovenian S&L Assoc. of Franklin-Conemaugh
 486 Somerset Trust Company
 316 Sovereign Bank, F.S.B.
 465 St. Edmonds Federal Savings Bank
 518 Standard Bank PASB
 542 Stonebridge Bank
 440 SunTrust Bank
 30 Susquehanna Bank
 236 **Swineford National Bank**

Bank Code T.

143 **TD Bank**
 594 **Team Capital Bank**
 26 Third Federal Bank
 609 Tristate Capital Bank
 467 Turbotville National Bank

Bank Code U.

113 Union Bank and Trust Company
 481 Union Building and Loan Savings Bank
 483 **Union National Bank of Mount Carmel**
 133 Union National Community Bank
 472 United Bank of Philadelphia
 475 **United Savings Bank**
 600 Unity Bank
 232 Univest National Bank & Trust Co.

Bank Code V.

589 Valley Green Bank
 607 **Vantage Point Bank**
 611 Victory Bank (The)
 182 VIST Bank

Bank Code W.

338 Wachovia
 119 Washington Financial Bank
 121 Wayne Bank
 553 WesBanco Bank
 122 West Milton State Bank
 494 West View Savings Bank
 473 Westmoreland Federal Savings
 476 William Penn Bank
 625 Wilmington Trust FSB
 160 **Wilmington Trust of PA**
 272 Woodlands Bank
 573 **Woori America Bank**

Bank Code X.**Bank Code Y.**

577 York Traditions Bank

Bank Code Z.**Platinum Leader Banks**

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 at the higher of 1% or 75% 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.

[Pa.B. Doc. No. 10-766. Filed for public inspection April 30, 2010, 9:00 a.m.]

Notice of Disbarment

Notice is hereby given that John E. Anderson, having been suspended from the practice of law in the District of Columbia for a period of six months by Opinion and Order of the District of Columbia Court of Appeals decided August 2, 2001, and having been disbarred from the practice of law in the District of Columbia by Order of the District of Columbia Court of Appeals decided September 3, 2009, the Supreme Court of Pennsylvania issued an Order on April 8, 2010, disbarring John E. Anderson from the Bar of this Commonwealth, effective May 8, 2010. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
 Secretary

*The Disciplinary Board of the
 Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 10-767. Filed for public inspection April 30, 2010, 9:00 a.m.]

Notice of Disbarment

Notice is hereby given that Lloyd Felix Ukwu having been disbarred from the practice of law in the District of Columbia by Opinion and Order of the District of Columbia Court of Appeals decided September 24, 2009, the Supreme Court of Pennsylvania issued an Order on April 8, 2010, disbarring Lloyd Felix Ukwu from the Bar of this Commonwealth, effective May 8, 2010. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 10-768. Filed for public inspection April 30, 2010, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Ronnie Thaxton, having been suspended from the practice of law in the District of Columbia by Opinion and Order of the District of Columbia Court of Appeals decided September 10, 2009, the Supreme Court of Pennsylvania issued an Order dated April 8, 2010, suspending Ronnie Thaxton from the practice of law in this Commonwealth for a period of six months, effective May 8, 2010. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 10-769. Filed for public inspection April 30, 2010, 9:00 a.m.]

RULES AND REGULATIONS

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 231]

[Correction]

Intrastate Motor Carrier Safety Requirements

An error occurred in the ordering language for this document which appeared at 40 Pa.B. 2106, 2107 (April 24, 2010). The rescission of § 231.191 was inadvertently omitted.

§ 231.191 (Reserved).

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

PROPOSED RULEMAKING

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

[49 PA. CODE CH. 43b]

Schedule of Civil Penalties—Audiologists, Speech-Language Pathologists and Teachers of the Hearing Impaired

The Commissioner of Professional and Occupational Affairs (Commissioner) proposes to amend Chapter 43b (relating to Commissioner of Professional and Occupational Affairs) by rescinding § 43b.16 (relating to schedule of civil penalties—audiologists, speech-language pathologists and teachers of the hearing impaired—statement of policy) and replacing it with § 43b.16a (relating to schedule of civil penalties—audiologists, speech-language pathologists and teachers of the hearing impaired), to read as set forth in Annex A.

Effective Date

The amendments will be effective upon publication of 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 and commissions in the Bureau of Professional and Occupational Affairs (Bureau), to promulgate regulations setting forth a schedule of civil penalties, guidelines for their imposition, and procedures for appeal for: (1) operating without a current and valid license, registration, certificate or permit; and (2) violating an act or regulation of a licensing board or commission relating to the conduct or operation of a business or facility licensed by the board or commission.

Background and Purpose

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 boards and commissions. 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 Boards and Commissions being accomplished through the Act 48 citation process.

The Commissioner had previously published a policy statement at 34 Pa.B. 5809 (October 23, 2004) establishing Act 48 civil penalties for practicing as an audiologist, speech-language pathologist or teacher of the hearing impaired on a lapsed license. The Commissioner now proposes to codify and amend the schedule of civil penalties in this proposed rulemaking. Proposed § 43b.16a would add a schedule of civil penalties for failure to complete required continuing education. The civil penalties in proposed § 43b.16a were drafted follow-

ing discussions between the State Board of Examiners in Speech-Language and Hearing (Board) and a representative of the Commissioner and were approved by the Board at its meeting on July 24, 2009.

Description of the Proposed Amendments

The proposal would codify the schedule of civil penalties that the Commissioner previously published pertaining to practice on a lapsed license and add a schedule of civil penalties for failing to complete mandatory continuing education, as required by the Board's regulations in § 45.501 (relating to credit hour requirements).

Fiscal Impact and Paperwork Requirements

The proposed rulemaking would have no adverse fiscal impact on the Commonwealth or its political subdivisions, and would 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

The Bureau continually monitors the effectiveness of its 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 21, 2010, 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 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 that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commissioner, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Cynthia Montgomery, Regulatory Counsel, Bureau of Professional and Occupational Affairs, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

BASIL L. MERENDA,
Commissioner

Fiscal Note: 16A-6804. No fiscal impact; (8) recommends adoption.

Annex

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.16. [Schedule of civil penalties—audiologists, speech-language pathologists and teachers of the hearing impaired—statement of policy] (Reserved).

[STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE AND HEARING

Violation under	Title/Description	Civil Penalty
63 P. S. Section 1706	Practicing as an audiologist, speech-language pathologist, or teacher of the hearing impaired on a lapsed license	1st offense 0—12 mos.—\$50 per month; Over 12 months—formal action 2nd offense—formal action]

§ 43b.16a. Schedule of civil penalties—audiologists, speech-language pathologists and teachers of the hearing impaired.

STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE AND HEARING

Violation under	Title/Description	Civil Penalty
63 P. S. Section 1706	Practicing as an audiologist, speech-language pathologist, or teacher of the hearing impaired on a lapsed license.	0-12 months—\$50 per month Over 12 months—formal action 2nd offense—formal action
49 Pa. Code § 45.501	Failure to complete 20 hours of approved continuing education during a biennial renewal period.	1st offense—\$100 per clock hour 2nd offense—formal action

[Pa.B. Doc. No. 10-770. Filed for public inspection April 30, 2010, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

Ambient Water Quality Criterion; Chloride (Ch)

The Environmental Quality Board (Board) proposes to amend Table 3 in 25 Pa. Code § 93.7 (relating to specific water quality criteria), to read as set forth in Annex A.

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

A. Effective Date

This proposed amendment will be effective upon publication in the *Pennsylvania Bulletin* as final-form rule-making.

B. Contact Persons

For further information, contact Roberta Radel, Bureau of Water Standards and Facility Regulation, Rachel Carson State Office Building, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 787-5017; or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us.

C. Statutory and Regulatory Authority

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

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

D. Background of the Proposed Amendments

Section 303(c)(1) of the Clean Water Act requires that states periodically, but at least once every 3 years, review and revise as necessary their water quality standards. Water quality standards are instream water quality goals that are implemented by imposing specific regulatory requirements (such as treatment requirements and effluent limits) on individual sources of pollution. As part of the current review, the chloride criterion is being evaluated.

A Statewide aquatic life criterion for chloride would provide an appropriate level of protection for all of this Commonwealth's waters and would circumvent the difficulties associated with the implementation of the current osmotic pressure (OP) criterion. The existing chloride criterion was developed primarily for the protection of potable water supplies (PWSs). Although this criterion may be protective of instream aquatic life uses when applied, it is not applied in all waters of this Commonwealth, but rather only at the point of water supply

intake, under 25 Pa. Code § 96.3(d) (relating to water quality protection requirements). Elevated levels of chloride are toxic to aquatic life in freshwater environments. Therefore, the Department is recommending additional chloride criteria to be applied in all waters for the protection of aquatic life. The current PWS criterion for chloride is included in Table 3 in 25 Pa. Code § 93.7 and establishes a maximum level of 250 milligrams of chloride per liter of water, applicable only at the point of all existing or planned surface PWS withdrawals, unless otherwise specified by regulation.

Prior to December 14, 2002, the chloride criterion was applicable Statewide, rather than only at the point of withdrawal. The movement of the compliance point for total dissolved solids (TDS), chloride and sulfate criteria to the point of water supply intake was not expected to be detrimental to aquatic life because the Statewide surface water criterion for OP (OP = 50 mOsm/kg) was applied to protect aquatic life from the adverse effects of these other parameters throughout the waterbody. Unfortunately, there have been problems with the implementation of the OP criterion. Most notably, OP is a measure of pressure and, as such, it is not well suited to the mass-balance approach used to calculate Water Quality-Based Effluent Limitation (WQBELs). Additionally, OP can only be evaluated at a single discharge point, which does not account for the cumulative loads of dissolved constituents added to a stream from multiple sources. Finally, limited available laboratory capabilities for analysis of OP adversely affect compliance monitoring.

Chloride occurs naturally in the aquatic environment, especially in waters flowing through geologic formations of marine origin. The major anthropogenic sources of chloride include deicing salt for roads, urban and agricultural runoff, treated industrial waste, discharges from municipal wastewater plants and the drilling of oil and gas wells (EPA, 1988).

Freshwater fish and aquatic communities cannot survive in elevated concentrations of chlorides. Maintaining a proper salt-to-water balance in a fresh water environment challenges most aquatic life and, in particular, aquatic insects. Macroinvertebrates maintain an internal ionic concentration that is higher than the surrounding environment by actively transporting ions in and out of their bodies through osmoregulation according to Buchwalter and Luoma in a 2005 publication titled *Differences in dissolved cadmium and zinc uptake among stream insects: mechanistic explanations* (Environmental Science and Technology, 39:498—504). Osmoregulation can be disrupted by large increases in certain ions (including chloride). This disruption in water balance and ion exchange is capable of causing stress or death to the organism according to Pond, *et al.* in a 2008 publication titled *Downstream effects of mountaintop coal mining: comparing biological conditions using family- and genus-level macroinvertebrate bioassessment tools* (North American Benthological Society, 27:717—737).

The United States Environmental Protection Agency (EPA) published *Ambient Water Quality Criteria for Chloride* in February 1988, which summarized the published toxicity data for chloride on freshwater plant and animal species. The acute and chronic effects of chlorides on aquatic animals were documented, along with the chronic effects of chlorides on aquatic plants. The EPA developed the chloride criteria given below for protection against adverse acute and chronic impacts on freshwater aquatic

life based on the *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses*, PB85-227049 (Stephan, *et al.*, 1985). The EPA determined the 4-day and 1-hour chronic and acute average concentrations based upon how quickly some aquatic species reacted to higher concentrations of chlorides. The Criteria Continuous Concentration (CCC) and Criteria Maximum Concentration (CMC) values should not be exceeded more than once every 3 years on the average (EPA, 1988).

The 4-day average (CCC) criterion = 230 mg/l

The 1-hour average (CMC) criterion = 860 mg/l

A copy of the Department's rationale document on the development of the Statewide water quality criterion for chloride is available on the Department's web site or from the contacts whose addresses and telephone numbers are listed in Section B. A link to *Ambient Water Quality Criteria for Chloride* (EPA, 1988) can also be found on the Department's web site.

The Department has reviewed the EPA ambient water quality criteria development document for chloride and agrees with the data analysis, interpretation and methods used to develop the criteria. The Department recommends adopting these National chloride criteria for protection of aquatic life due to increasing concerns about the Statewide impact of natural gas extraction from the Marcellus Shale formation.

E. Benefits, Costs and Compliance

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

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

Persons conducting or proposing activities or projects must comply with the regulatory requirements relating to designated and existing uses. Persons expanding a discharge or adding a new discharge to a stream could be adversely affected if they need to provide a higher level of treatment to meet the more stringent criteria for selected parameters or there are changes in designated and existing uses of the stream. These increased costs may take the form of higher engineering, construction or operating cost for wastewater treatment facilities. Treatment costs are site-specific and depend upon the size of the discharge in relation to the size of the stream and many other factors.

Although not required, as part of the development of the criterion, the Department has reviewed available treatment technologies and found that several processes are available to industry for the remediation of high dissolved chloride levels including evaporation, crystallization and reverse osmosis. Capital costs are dependent on the nature of the waste stream and other site-specific variables, making these costs difficult to estimate. However, operating costs for chloride removal can be generally estimated as follows:

Evaporation or crystallization facilities (for use with brines in excess of 40,000 mg/L TDS) will range from 25—50 cents per gallon. A facility should operate at the low end of the estimated range if it is designed to: 1) use natural gas at the wellhead as the energy source; and 2) produce useable road salt as a byproduct.

Reverse Osmosis facilities (for use with low strength brines < 40,000 mg/L) should produce satisfactory effluents at a cost of less than 1 cent per gallon.

While it is not possible to precisely predict the actual change in costs, it should be noted that the initial costs from technologically-improved treatments may be offset over time by potential savings from and increased value of better water quality through these improved and possibly more effective or efficient treatments.

3. *Compliance Assistance Plan*—The proposed revision has been developed as part of an established program that has been implemented by the Department since the early 1980s. The revision is consistent with and based on existing Department regulations.

The proposed amendment will be implemented, in part, through the National Pollutant Discharge Elimination System (NPDES) permitting program. Staff is available to assist regulated entities in complying with the regulatory requirement if questions arise.

4. *Paperwork Requirements*—The regulatory revisions should have no direct paperwork impact on the Commonwealth, local governments and political subdivisions or the private sector.

F. *Pollution Prevention*

Water quality standards are a major pollution prevention tool because they protect water quality and designated and existing uses. The proposed amendment will be implemented through the Department's permit and approval actions. For example, the NPDES bases effluent limitations on the applicable criteria and protected uses of the stream.

G. *Sunset Review*

The proposed amendment will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfill the goals for which it was intended.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 21, 2010, the Department submitted a copy of this proposed amendment to the Independent Regulatory Review Commission (IRRC) and to the House and Senate Environmental Resources and Energy Committees (Committees). In addition to submitting the proposed amendment, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

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

I. *Public Comments*

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments must be received by the Board by June 15, 2010. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by the Board by June 15, 2010. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the proposed amendments will be considered. If sufficient interest is generated as a result of this publication, a public hearing will be scheduled at an appropriate location to receive additional comments.

Electronic Comments. Comments may be submitted electronically to the Board at RegComments@state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by June 15, 2010.

JOHN HANGER,
Chairperson

Fiscal Note: 7-457. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 93. WATER QUALITY STANDARDS

§ 93.7. Specific water quality criteria.

(a) Table 3 displays specific water quality criteria and associated critical uses. The criteria associated with the Statewide water uses listed in § 93.4, Table 2 apply to all surface waters, unless a specific exception is indicated in §§ 93.9a—93.9z. Other specific water quality criteria apply to surface waters as specified in §§ 93.9a—93.9z. All applicable criteria shall be applied in accordance with this chapter, Chapter 96 (relating to water quality standards implementation) and other applicable State and Federal laws and regulations.

TABLE 3

<i>Parameter</i>	<i>Symbol</i>	<i>Criteria</i>	<i>Critical Use*</i>
		* * * * *	
Chloride	Ch ₁	Maximum 250 mg/l.	PWS
	Ch ₂	Four-day average 230 mg/l; 1-hour average 860 mg/l.	CWF, WWF, TSF, MF
		* * * * *	

[Pa.B. Doc. No. 10-771. Filed for public inspection April 30, 2010, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 54]

[L-2009-2095604/57-273]

Default Service Regulations

Executive Summary

Re: Implementation of Act 129 of October 15, 2008; Default Service

On October 15, 2008, Governor Edward Rendell signed House Bill 2200, Act 129, into law. The Act became effective on November 14, 2008. Act 129 has several goals including reducing energy consumption and demand. Act 129 also revises the default service requirements contained in Chapter 28 of the Public Utility Code. This Notice of Proposed Rulemaking Order hereby opens a rulemaking proceeding to consider amendments to the Commission's default service regulations as required by the enactment of Act 129 such that the Commission's regulations shall be consistent with the Act. Annex A contains proposed amendments to 52 Pa. Code §§ 54.181—54.188 to be consistent with Act 129.

Under the 1996 Pennsylvania electric restructuring law, the electric distribution companies (or alternative Commission-approved default suppliers) were required to serve non-shopping customers after rate caps ended by acquiring electric energy at prevailing market prices. Act 129 explicitly repealed the prevailing market prices standard, and declared instead that the utilities' generation purchases must be designed to ensure adequate and reliable service at the least cost to customers over time. 66 Pa.C.S. § 2807(e)(3.6). The Commission proposes amending 52 Pa. Code § 54.186 (relating to default service procurement and implementation plans), such that the regulation will conform to Act 129.

Another substantive change is that in reviewing a utility's default service plan, the Commission must now consider "the default service provider's obligation to provide adequate and reliable service to customers and that the default service provider has obtained a prudent mix of contracts to obtain least cost on a long-term, short-term, and spot market basis." 66 Pa.C.S. § 2807(e)(3.7). Proposed amendments to 52 Pa. Code §§ 54.186 and 54.188 (relating to Commission review of default service programs and rates) change the current regulations such that they are in conformity with Act 129.

Yet another change is that contracts for supply formerly were defined as being up to 3 years in length. Now, under Act 129, a long-term purchase contract is generally defined as a contract "of more than four and not more than 20 years." 66 Pa.C.S. § 2807(e)(3.2)(iii). Accordingly, the Commission proposes amending 52 Pa. Code § 54.186.

The Commission additionally seeks comment on 14 questions regarding default service.

The contact person is Elizabeth Barnes, Law Bureau (717) 772-5408, ebarnes@state.pa.us.

Public Meeting held
January 14, 2010

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

Implementation of Act 129 of October 15, 2008; Default Service; Doc. No. L-2009-2095604

Proposed Rulemaking Order

By the Commission:

On October 15, 2008, Governor Edward Rendell signed House Bill 2200, Act 129, into law. The Act became effective on November 14, 2008. Act 129 has several goals including reducing energy consumption and demand. Act 129 also revises the default service requirements contained in Chapter 28 of the Public Utility Code. This Notice of Proposed Rulemaking Order hereby opens a rulemaking proceeding to consider amendments to our default service regulations as required by the enactment of Act 129 such that our regulations shall be consistent with the Act.

Procedural History

Historically, the local electric utility company was responsible for generating or purchasing and delivering electricity to the customers' premises. However, the Electric Generation Customer Choice and Competition Act (Competition Act) of December 3, 1996 (P.L. 802, No. 138), codified at 66 Pa.C.S. §§ 2801, *et seq.*, required electric distribution companies (EDCs) to unbundle transmission, distribution and generation rates for retail customers. The Competition Act deregulated electricity generation and provided all customers in Pennsylvania the opportunity to choose their electricity generation supplier (EGS). 66 Pa.C.S. § 2806(a). The EDC is responsible for delivering the electricity to those customers who choose to buy from an EGS. Additionally, the EDC is responsible for both acquiring and delivering electricity for those customers who do not shop or buy their electricity from an EGS, or whose EGS fails to provide the promised electricity.

When an EDC acquires electricity for customers not served by an EGS, the EDC is functioning as the "default service provider" (DSP). Currently, the rates charged to most Pennsylvania customers are capped. The Competition Act provided that an EDC's generation rates be capped until the EDC had completed its stranded cost recovery. Many of the larger EDCs agreed to extend rate caps as part of their electric restructuring settlements. For most of these companies, generation rate caps do not expire until December 31, 2010. Other EDCs, most notably Duquesne Light Company and several smaller EDCs had shorter stranded cost recovery periods that expired much sooner, as early as 1999 for Citizens Electric Company of Lewisburg, Inc.

Following the expiration of rate caps, the Competition Act provided that default service providers "acquire elec-

tric energy at prevailing market prices” to serve default service customers and that default service providers “recover fully all reasonable costs.” 66 Pa.C.S. § 2807(e)(3). There has been disagreement over what “prevailing market prices” mean as applied to default service rates.

History of Default Service Regulations and Policy Statement

On May 10, 2007, the Commission issued a Final Rulemaking Order at Docket No. L-00040169 regarding default service. The default service regulations became effective on September 15, 2007. The Commission further issued a separate policy statement order on February 9, 2007, at Docket No. M-00072009 that contained guidelines for DSPs in the areas of procurement, rate design, and cost-recovery. The default service regulations set forth detailed requirements for default service plans. The regulations require default service providers to acquire default supply at prevailing market prices. The regulations further require that electric generation supply be acquired by competitive bid solicitations, spot market purchases or a combination of both. 52 Pa. Code § 54.186(b)(4). Competitive bid processes are subject to monitoring by the Commission. 52 Pa. Code § 54.186(c)(3). The regulations allow DSPs to use automatic adjustment clauses for recovery of non-alternative energy default service costs. 52 Pa. Code § 54.187(f). The default service Policy Statement provides additional guidance to EDCs regarding energy procurement, bid solicitation processes, default service cost elements, rate design, rate change mitigation, rate and bill ready billing, purchase of receivables programs, customer referral program and supplier tariff uniformity.

Act 129

Even though the retail provision of electric generation service has been subject to competition for nearly a decade, the vast majority of residential customers continue to obtain their generation supplies from their “default” supplier, that is, their regulated electric distribution utility. Under the 1996 Pennsylvania electric restructuring law, the electric distribution companies (or alternative Commission-approved default suppliers) were required to serve non-shopping customers after rate caps ended by acquiring electric energy “at prevailing market prices.” Act 129 explicitly repealed the prevailing market prices standard, and declared instead that the utilities’ generation purchases must be designed to ensure adequate and reliable service at the least cost to customers over time. 66 Pa.C.S. § 2807(e)(3.6).

In reviewing a utility’s default service plan, the Commission must consider “the default service provider’s obligation to provide adequate and reliable service to customers and that the default service provider has obtained a prudent mix of contracts to obtain least cost on a long-term, short-term and spot market basis.” 66 Pa.C.S. § 2807(e)(3.7).

Another substantive change is that contracts for supply formerly were defined as being up to 3-years in length. Now, under Act 129, a long-term purchase contract is generally defined as a contract “of more than four and not more than 20 years.” 66 Pa.C.S. § 2807(e)(3.2)(iii).

In summary, under Act 129, electric power shall be procured through competitive procurement processes and shall include one or more of the following: (1) auctions; (2) requests for proposals; or (3) bilateral agreements. 66 Pa.C.S. § 2807(e)(3.1). Additionally, the electric power that is procured shall include a prudent mix of: (1) spot

market purchases; (2) short-term contracts; and (3) long-term purchase contracts of more than 4 and not more than 20 years. 66 Pa.C.S. § 2807(e)(3.2). Long-term contracts may not constitute more than 25% of projected load absent a Commission determination that good cause exists for a higher percentage to achieve least cost procurement. 66 Pa.C.S. § 2807(e)(3.2)(iii).

The “prudent mix” of contracts shall be designed to ensure: (1) adequate and reliable service; (2) the least cost to customers over time; (3) compliance with the procurement methodologies described previously, that is, through auctions, requests for proposals, or bilateral agreements. 66 Pa.C.S. §§ 2807(e)(3.4) and (e)(3.1). “Bilateral contract” is a new term defined under 66 Pa.C.S. § 2803 (relating to definitions).

In terms of process, the DSP must file a plan for competitive procurement with the Commission and obtain Commission approval of the plan considering certain factors and standards under 66 Pa.C.S. § 2807(e) before the competitive process is implemented. The Commission shall hold hearings as necessary on the proposed plan. If the Commission fails to issue a final order on the plan within 9 months of the date that the plan is filed, the plan is deemed to be approved and the default service provider may implement the plan as filed. 66 Pa.C.S. § 2807(e)(3.6).

When evaluating a default service plan, the Commission must consider the DSP’s obligation to provide adequate and reliable service to the customers and that the DSP has obtained a prudent mix of contracts to obtain the least cost on a long-term, short-term and spot market basis. The Commission is required to make specific findings that include: (1) the DSP’s plan includes prudent steps necessary to negotiate favorable generation supply contracts; (2) the DSP’s plan includes prudent steps necessary to obtain least cost generation contracts on a long-term, short-term and spot market basis; and (3) neither the DSP nor its affiliated interest has withheld generation supply from the market as a matter of Federal law. 66 Pa.C.S. § 2807(e)(3.7).

Further, under Act 129, DSPs have a right to recover default service costs pursuant to a reconcilable automatic adjustment clause and residential and small commercial and industrial customers’ rates cannot change more frequently than quarterly. 66 Pa.C.S. § 2807(e)(3.9). Default service plans approved by the Commission prior to the effective date of Act 129 shall remain in effect through the approved term. However, the DSP may propose amendments to an approved plan. 66 Pa.C.S. § 2807(e)(6).

Discussion

Consistent with the language of Act 129, the Commission proposes to make the following revisions to our current default service regulations and invites the public to comment within 30 days of publication of this Order in the *Pennsylvania Bulletin*.

Definitions at 66 Pa.C.S. § 2803—Default Service Provider.

Act 129 adds additional language to the definition of a default service provider. Definitions at 66 Pa.C.S. § 2803—Default Service Provider provides in pertinent part:

An electric distribution company within its certified service territory or an alternative supplier approved by the Pennsylvania Public Utility Commission that provides generation service to retail electric custom-

ers who: (1) contract for electric power, including energy and capacity, and the chosen electric generation supplier does not supply the service; or (2) do not choose an alternative electric generation supplier.

Whereas, 52 Pa. Code § 54.182 (Definitions) provides:

“Default Service Provider—DSP” The incumbent EDC within a certificated service territory or a Commission approved alternative supplier of electric generation service.

Because the new definition of default service provider includes alternative supplier approved by the Commission, we propose to amend 52 Pa. Code § 54.182 such that it mirrors verbatim the definition in 66 Pa.C.S. § 2803. Comment is sought on this determination.

Definitions at 66 Pa.C.S. § 2803—Bilateral contract.

“Bilateral contract” is a new term and is defined in § 2803 as follows.

An agreement, as approved by the Commission, reached by two parties, each acting in its own independent self-interest, as a result of negotiations free of undue influence, duress or favoritism, in which the electric energy supplier agrees to sell and the electric distribution company agrees to buy a quantity of electric energy at a specified price for a specified period of time under terms agreed to by both parties, and which follows a standard industry template widely accepted in the industry or variations thereto accepted by the parties. Standard industry templates may include the EEI Master Agreement for physical energy purchases and sales and the ISDA Master Agreement for financial energy purchases and sales.

66 Pa.C.S. § 2803.

Bilateral agreements are referenced in 66 Pa.C.S. § 2807(e)(3.1)(iii). We propose to amend 52 Pa. Code § 54.182 such that it mirrors verbatim the definition in 66 Pa.C.S. § 2803. Comment is sought on this determination.

52 Pa. Code § 54.184. (Default Service Provider Obligations)

66 Pa.C.S. § 2807(e) states the duties of an EDC’s obligation to serve. Specifically, it adds a qualifier that while an EDC collects either a competitive transition charge or an intangible transition charge or until 100% of an EDC’s customers have electric choice, whichever is longer, an EDC as a default service provider is responsible for reliable provision of default service to retail customers. Accordingly, we propose the following language be added to 52 Pa. Code § 54.184(a).

(a) While an EDC collects either a competitive transition charge or an intangible transition charge or until 100% of an EDC’s customers have electric choice, whichever is longer, an EDC as a default service provider shall be responsible for the reliable provision of default service to retail customers who are not receiving generation services from an alternative EGS within the certificated territory of the EDC that it serves or whose alternative EGS has failed to deliver electric energy.

66 Pa.C.S. § 2807(e)(1) provides that the obligation to serve includes: (1) the connection of customers; (2) the delivery of electricity; and (3) the production or acquisition of electricity for customers. We propose adding the same language to our regulations.

Furthermore, Act 129 states that following the expiration of an EDC’s obligation to provide electric generation supply service to retail customers at capped rates, if a customer contracts for electric generation supply service and the chosen electric generation supplier does not provide the service or if a customer does not choose an alternative electric generation supplier, the default service provider shall provide electric generation supply service to that customer pursuant to a Commission-approved competitive procurement process including one or more of the following: (1) auctions; (2) requests for proposals; or (3) bilateral agreements entered into at the sole discretion of the DSP which shall be at prices that are no greater than the cost of obtaining generation under comparable terms in the wholesale market or consistent with a Commission-approved competition procurement process. 66 Pa.C.S. § 2807(e)(3.1). Affiliated interest agreements are subject to Commission review and approval. This underlined language adds new requirements to our existing regulations, and we propose to modify 52 Pa. Code § 54.184 to reflect the additional requirements.

Furthermore, we propose to amend the following language in 52 Pa. Code § 54.184 to reflect the recent passage of Act 129 as follows.

A DSP shall continue the universal service and energy conservation program in effect in the EDC’s certificated service territory or implement, subject to Commission approval, similar programs consistent with 66 Pa.C.S. §§ 2801—[2812] 2815 (relating to Electricity Generation Customer Choice and Competition Act and Act 129 providing for energy efficiency and conservation programs). The Commission will determine the allocation of these responsibilities between an EDC and an alternative DSP when an EDC is relieved of its DSP obligation.

52 Pa. Code § 54.185.

We propose adding language to subsection (b) to reflect the new 9 month deadline for Commission review in Act 129. 66 Pa.C.S. § 2807(e)(3.6). If the Commission fails to issue a final order on the plan within nine months of the date that the plan is filed, then the plan shall be deemed approved and the DSP may implement the plan as filed. Costs incurred through an approved competitive procurement plan shall be deemed to be the least cost over time as per Act 129. 66 Pa.C.S. § 2807(e)(3.6). This language will replace existing subsection (b)’s language. The old language will be moved to subsection (c). Subsequent sections will move down one letter as well.

52 Pa. Code § 54.186. (Default Service Procurement and Implementation Plans)

Act 129 sets forth different standards from our current regulations that a DSP’s procurement plan must adhere to. We propose deleting the old standard and replacing it with the “prudent mix” standard as outlined in Act 129. For example instead of a plan being “designed to acquire electric generation supply at prevailing market prices to meet the DSP’s anticipated default service obligation at reasonable costs,” as specified in § 54.186, Act 129 now requires the plan “include a prudent mix of: (a) spot market purchases; (b) short-term contracts; and (c) long-term (5-20 year) contracts. 66 Pa.C.S. § 2807(e)(3.2)(i), (ii) and (iii).

A prudent mix of contracts must be designed to ensure: (1) adequate and reliable service; (2) the least cost to customers over time; and (3) compliance with the requirements of subsection (e)(3.1) regarding competitive pro-

curement. 66 Pa.C.S. § 2807(e)(3.4). We will add this language to our regulation. There are two exceptions to the long-term purchase contracts under Act 129 which will be added to our regulations at subsection (b)(1)(iii)(A) and (B).

Act 129 provides that the DSP may petition for modifications to the approved procurement and implementation plans when material changes in wholesale energy markets occur to ensure the acquisition of sufficient supply at prevailing market prices. 66 Pa.C.S. § 2807(e)(6). Also, the DSP is obligated to monitor changes in wholesale energy markets to ensure that its procurement plan continues to reflect the incurrence of reasonable costs, consistent with 66 Pa.C.S. § 2807(e)(3.4) (relating to the prudent mix).

Accordingly, we will add the following language to this section in conformance with Act 129:

(e) At the time the Commission evaluates the plan and prior to its approval, in determining if the DSP's Plan obtains generation supply at the least cost, the Commission shall consider the DSP's obligation to provide adequate and reliable service to customers and that the DSP has obtained a prudent mix of contracts to obtain least cost on a long-term, short-term and spot market basis. The Commission shall make specific findings which shall include the following:

- 1. The DSP's plan includes prudent steps necessary to negotiate favorable generation supply contracts.**
- 2. The DSP's plan includes prudent steps necessary to obtain least cost generation supply contracts on a long-term, short-term, and spot market basis.**
- 3. Neither the DSP nor its affiliated interest has withheld from the market any generation supply in a manner that violates Federal law.**

We invite comment on this addition.

52 Pa. Code § 54.187. (Default Service Rate Design and the Recovery of Reasonable Costs)

Act 129 states that costs incurred for providing default service shall be recovered through a reconcilable automatic adjustment clause under Section 1307, all reasonable costs incurred under 66 Pa.C.S. § 2807 and a Commission-approved competitive procurement plan. 66 Pa.C.S. § 2807(e)(3.9). This language will be added to § 54.187 and the phrase "default service rate schedule . . . designed to recover fully all reasonable costs incurred by the DSP during the period default service is provided to customers, based on the average-cost to acquire supply for each customer class" shall be stricken as the methodology has changed.

Additionally, consistent with 66 Pa.C.S. § 2807(e)(3.8), we propose to add language under § 54.187(a) regarding when the Commission may modify contracts or disallow costs when after a hearing the party seeking recovery of the costs of a procurement plan is found to be at fault for either: (1) not complying with the Commission-approved procurement plan; or (2) the commission of fraud, collusion, or market manipulation with regard to these contracts. We invite comment on the proposed changes to this section.

We further propose, consistent with 66 Pa.C.S. § 2807(e)(3.8), changing language in subsection (b) allowing for recovery through reconcilable automatic adjust-

ment under 66 Pa.C.S. § 1307. We are combining the first two sentences of subsection (g) into (b) as they are redundant. We propose removing the phrase "or more frequently" from subsection (i) to comply with Act 129. We invite comment on these proposed changes.

52 Pa. Code § 54.188. (Commission Review of Default Service Program and Rates)

Act 129 provides that a DSP shall file a plan for competitive procurement with the Commission and obtain Commission approval of the plan considering the standards in paragraphs (3.1), (3.2), (3.3) and (3.4) before the competitive process is implemented. 66 Pa.C.S. § 2807(e)(3.6). The Commission is required to hold hearings as necessary on the proposed plan and if the Commission fails to issue a final order on the plan within nine months of the date the plan is filed, the plan is deemed to be approved and a DSP may implement the plan. 66 Pa.C.S. § 2807(e)(3.6).

Additionally, section 2813 (relating to Procurement of power) provides that the Commission may not order a DSP to procure power from a specific generation supplier, from a specific generation fuel type or from new generation only. This is except as provided under the act of November 30, 2004, (P.L. 1672, No. 213), known as the Alternative Energy Portfolio Standards Act.

We are also taking this opportunity to codify the provisions of House Bill 1530 of 2007, which was signed into law on July 17, 2007. This law added section 2807(e)(5) to the Public Utility Code, and authorized electric distribution companies to offer negotiated rates to some very large industrial customers, subject to Commission review. It also permitted some electric distribution companies to construct or acquire an interest in an electric generation facilities for the purposes of serving very large industrial customers, subject to certain conditions. We are addressing this change under § 54.188(h).

Accordingly, we propose adding the following language under this section to reflect changes in Act 129.

(a) The DSP shall file a plan for competitive procurement with the Commission and obtain Commission approval of the plan considering the standards in 66 Pa.C.S. § 2807(e)(3.1), (3.2), (3.3), and (3.4) before the competitive process is implemented. The Commission shall hold hearings as necessary on the proposed plan. A default service program will initially be referred to the Office of Administrative Law Judge for further proceedings as may be required.

(b) If the Commission fails to issue a final order on the plan within 9 months of the date the plan is filed, the plan shall be deemed approved and the DSP may implement the plan as filed. Costs incurred through an approved competitive procurement plan shall be deemed to be the least cost over time as required under 66 Pa.C.S. § 2807(e)(3.4)(ii). [The Commission will issue an order within 7 months of a program's filing with the Commission on whether the default service program demonstrates compliance with this subchapter and 66 Pa.C.S. §§ 2801—2812 (relating to the Electricity Generation Customer Choice and Competition Act).]

(d) [Upon receiving written notice, the Commission will have 1 business day, to approve or disapprove the results of a competitive bid solicitation process used by a DSP as part of its procurement plan. When the Commission does not act within 1

business day the results of the process will be deemed approved. The Commission will not certify or otherwise approve or disapprove a DSP's spot market energy purchases made pursuant to a Commission-approved procurement plan. The Commission will monitor the DSP's adherence to the terms of the approved default service program and 66 Pa.C.S. §§ 2801—2812 (relating to the Electricity Generation Customer Choice and Competition Act).] The Commission may initiate an investigation regarding implementation of the DSP's default service program and, at the conclusion of the investigation, order remedies as may be lawful and appropriate. The Commission will not deny the DSP the recovery of its reasonable costs for purchases made pursuant to an approved competitive procurement process unless the DSP concealed or misled the Commission regarding its adherence to the program, or otherwise violated the provisions of this subchapter or the code. **Except as provided under the act of November 30, 2004, (P.L. 1672, No. 213), known as the Alternative Energy Portfolio Standards Act, the Commission may not order a DSP to procure power from a specific generation supplier, from a specific generation fuel type or from new generation only. At the time the Commission evaluates the plan and prior to approval, the Commission shall consider the default service provider's obligation to provide adequate and reliable service to customers and the DSP has obtained a prudent mix of contracts to obtain least cost on a long-term, short-term and spot market basis. The Commission shall make specific findings which include:**

(1) **The DSP's plan includes prudent steps necessary to negotiate favorable generation supply contracts.**

(2) **The DSP's plan includes prudent steps necessary to obtain least cost generation supply contracts on a long-term, short-term and spot market basis.**

(3) **Neither the DSP nor its affiliated interest has withheld from the market any generation supply in a manner that violates Federal law.**

(f) **A DSP shall submit tariff supplements on a quarterly or more frequent basis, consistent with § 54.187(h) and (i) (pertaining to default service rate design and recovery of reasonable costs), to revise default service rates to ensure the recovery of costs reasonably incurred in acquiring electricity [at prevailing market prices]. The DSP shall provide written notice to the named parties identified in § 54.185(b) of the proposed rates at the time of the tariff filings. The tariff supplements shall be posted to the DSP's public internet domain at the time they are filed with the Commission. A customer or the parties identified in § 54.185(b) may file exceptions to the default service tariffs within 20 days of the date the tariffs are filed with the Commission. The exceptions shall be limited to whether the DSP has properly implemented the procurement plan approved by the Commission and accurately calculated the rates. The DSP shall post the revised PTC for each customer class within 1 business day of its effective date to its public internet domain to enable customers to make an informed decision about electric generation supply options.**

(g) **If a customer that chooses an alternative supplier and subsequently desires to return to the**

local distribution company for generation service, the local distribution company shall treat that customer exactly as it would any new applicant for energy service.

(h) **The DSP may, in its sole discretion, offer large customers with a peak demand of 15 megawatts or greater at one meter location in its service territory any negotiated rate for service at all of the customers' locations within the service territory for any duration agreed upon by the DSP and the customer.**

(1) **Contract rates shall be subject to Commission review to ensure all costs are borne by the parties to the contract and no one else.**

(2) **If no costs related to the rates are borne by other customers, the Commission shall approve the contract within 90 days of its filing at the Commission, or it shall be deemed approved.**

(i) **The DSP shall offer residential and small business customers a generation supply service rate that shall change no more frequently than on a quarterly basis. All default service rates shall be reviewed by the Commission to ensure that the costs of providing service to each customer class are not subsidized by any other class.**

We invite comment regarding this proposal.

52 Pa. Code § 54.189. (Default Service Customers)

We propose that this section remain unchanged as it describes the default service customers and directs how they are to be treated by a DSP. These procedures need not be amended to be consistent with Act 129.

Additional Issues

This Commission is proposing regulations that generally adopt Act 129 procurement requirements verbatim. As there remains some ambiguity in the statutory interpretation of Act 129 procurement requirements, we seek comment on how Act 129 should be interpreted to ensure adequate and reliable service at the least cost to customers over time, and on how the proposed regulations should be revised to reflect the interpretation recommended by the person filing the comments.

Therefore, additional comments are sought on the following questions:

1. What is meant by "least cost to customers over time?"¹

2. What time frame should the Commission use when evaluating whether a DSP's procurement plan produces least cost to customers over time?

3. To comply with the requirement that the Commission ensure that default service is adequate and reliable, should the Commission's default service regulations incorporate provisions to ensure the construction of needed generation capacity in Pennsylvania?

4. If the Commission should adopt a provision to ensure the construction of needed generation capacity, how should the default service regulations be revised?

5. Which approach to supply procurement—a managed portfolio approach or a full requirements approach—is more likely to produce the least cost to customers over time?

6. What is a "prudent mix" of spot, long-term, and short-term contracts?

¹ See 66 Pa.C.S. § 2807(e)(3.2), (3.4) and (3.7).

7. Does a “prudent mix” mean that the contracts are diversified and accumulated over time?

8. Should there be qualified parameters on the prudent mix? For instance, should the regulations preclude a DSP from entering into all of its long-term contracts in one year?

9. Should the DSP be restricted to entering into a certain percentage of contracts per year?

10. Should there be a requirement that on a total-DSP basis, the “prudent mix” means that some quantity of the total-DSP default service load must be served through spot market purchases, some quantity must be served through short-term contracts, and some quantity must be served through long-term contracts?

11. Should there be a requirement that some quantity of each rate class procurement group’s load be served by spot market purchases, some quantity through short-term contracts, and some quantity through long-term contracts? In contrast, should a DSP be permitted to rely on only one or two of those product categories with the choice depending on what would be the prudent mix and would yield the least cost to customers over time for that specific DSP?

12. Should the DSP be required to hedge its positions with futures including natural gas futures because of the link between prices of natural gas and the prices of electricity?

13. Is the “prudent mix” standard a different standard for each different customer class?

14. What will be the effects of bankruptcies of wholesale supplier to default service suppliers on the short- and long-term contracts?

15. Does Act 129 allow for an after-the-fact review of the “cost reasonableness standard” in those cases where the approved default service plan gives the EDC substantial discretion regarding when to make purchases and how much electricity to buy in each purchase?²

16. How should the requirement that “this section shall apply” to the purchase of AECs be implemented. Section 2807(e)(3.5) states that “. . . the provisions of this section shall apply to any type of energy purchased by a default service provider to provide electric generation supply service, including energy or alternative energy portfolio standards credits required to be purchased, etc.”

Interested parties will be given 30 days from the date of publication of the Notice of Proposed Rulemaking in the *Pennsylvania Bulletin* for the submission of an original and 15 copies of comments and 45 days from the date of publication to submit an original and 15 copies of reply comments. A copy of all comments should be electronically mailed to Elizabeth Barnes at ebarnes@state.pa.us. The contact person is Elizabeth Barnes, Law Bureau, (717) 772-5408 (legal).

Accordingly, under 66 Pa.C.S. §§ 501, 1501 and 2801, *et seq.*, and the regulations promulgated thereunder at 52 Pa. Code §§ 57.191—57.197; and sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732.204(b)); section 5 of The Administrative Code of 1929 (71 P.S. § 232) and the regulations promulgated

² See Section 2807(e)(3.9), which provides the EDC with the right to recover “all reasonable costs” incurred under Section 2807 and under an approved competitive procurement plan.

thereunder at 4 Pa. Code §§ 7.231— 7.234, we are considering adopting the proposed regulations set forth in Annex A; *Therefore,*

It Is Ordered That:

1. This Proposed Rulemaking docket be opened to consider the regulations as set forth in Annex A.

2. The Secretary submit this proposed rulemaking order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor’s Budget Office for review of fiscal impact.

3. The Secretary shall submit this order and Annex A for review and comment by the designated standing committees of both Houses of the General Assembly, and for review and comment by the Independent Regulatory Review Commission.

4. The Secretary certify this order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. Interested parties shall have 30 days from the date of publication in the *Pennsylvania Bulletin* of the proposed rulemaking order and Annex A to file an original and 15 written comments to the Pennsylvania Public Utility Commission, Attention: Secretary Rosemary Chiavetta, P. O. Box 3265, Harrisburg, PA 17105-3265. Reply comments shall be due in 45 days after publication.

6. A copy of the comments should be electronically mailed to Elizabeth Barnes, Assistant Counsel at ebarnes@state.pa.us, and these comments in turn will be placed on the Commission’s web site for public viewing at www.puc.state.pa.us.

7. Comments should, where appropriate, address the issues identified in this order and should include, where applicable, a numerical reference to the attached Annex A which the comments address, proposed language for revision, and a clear explanation for the recommendation.

8. A copy of this order and Annex A be served upon all electric distribution companies and electric generation suppliers operating in Pennsylvania, the Office of Consumer Advocate, the Office of Small Business Advocate, the AFL-CIO Utility Caucus, the Pennsylvania Utility Contractors Association, and the Energy Association of Pennsylvania.

9. The contact person for this rulemaking is Elizabeth Barnes, Law Bureau, (717) 772-5408, ebarnes@state.pa.us.

By the Commission

ROSEMARY CHIAVETTA,
Secretary

Fiscal Note: 57-273. No fiscal impact; (8) recommends adoption.

(Editor’s Note: For a statement of policy relating to this proposal, see 40 Pa.B.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 54. ELECTRICITY GENERATION

CUSTOMER CHOICE

Subchapter G. DEFAULT SERVICE

§ 54.182. Definitions.

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

* * * * *

Bilateral contract—The term as defined in 66 Pa.C.S. § 2803 (relating to definitions).

* * * * *

DSP—Default service provider—[The incumbent EDC within a certificated service territory or a Commission approved alternative supplier of electric generation service] The term as defined in 66 Pa.C.S. § 2803.

* * * * *

§ 54.184. Default service provider obligations.

(a) [A DSP] While an EDC collects either a competitive transition charge or an intangible transition charge or until 100% of an EDC's customers have electric choice, whichever is longer, an EDC as a default service provider shall be responsible for the reliable provision of default service to retail customers who are not receiving generation services from an alternative EGS within the certificated territory of the EDC that it serves or whose alternative EGS has failed to deliver electric energy.

(b) [A DSP shall comply with the code and Chapter 1 (relating to rules of administrative practice and procedure) to the extent that the obligations are not modified by this subchapter or waived under § 5.43 (relating to petitions for issuance, amendment, repeal or waiver of regulations).] The obligation to serve includes:

- (1) The connection of customers.
- (2) The delivery of electricity.
- (3) The production or acquisition of electricity for customers.

(c) Following the expiration of an EDC's obligation to provide electric generation supply service to retail customers at capped rates, if a customer contracts for electric generation supply service and the chosen EGS does not provide the service, or if a customer does not choose an alternative EGS, the default service provider shall provide electric generation supply service to that customer pursuant to a Commission-approved competitive procurement process that includes one or more of the following:

- (1) Auctions.
- (2) Requests for proposals.
- (3) Bilateral agreements entered into at the sole discretion of the default service provider which shall be at prices that are:
 - (i) No greater than the cost of obtaining generation under comparable terms in the wholesale market, as determined by the Commission at the time of execution of the contract.
 - (ii) Consistent with a Commission-approved competition procurement process. Agreements between affiliated parties shall be subject to review and approval of the Commission under 66 Pa.C.S. §§ 2101—2107 (relating to relations with affiliated interests). The cost of obtaining generation from any affiliated interest may not be greater than the cost of obtaining generation under comparable terms in the wholesale market at the time of execution of the contract.

(d) A DSP shall continue the universal service and energy conservation program in effect in the EDC's

certificated service territory or implement, subject to Commission approval, similar programs consistent with [the] 66 Pa.C.S. §§ 2801—[2812] 2815 (relating to Electricity Generation Customer Choice and Competition Act and the amendments provided under the act of October 15, 2008 (P.L. 1592, No. 129) (Act 129) providing for energy efficiency and conservation programs). The Commission will determine the allocation of these responsibilities between an EDC and an alternative DSP when an EDC is relieved of its DSP obligation.

§ 54.185. Default service programs and periods of service.

* * * * *

(b) The Commission will hold hearings as necessary on the proposed plan. If the Commission fails to issue a final order on the plan within 9 months of the date that the plan is filed, the plan will be deemed to be approved and the default service provider may implement the plan as filed. Costs incurred through an approved competitive procurement plan shall be deemed to be the least cost over time.

(c) Default service programs must comply with Commission regulations pertaining to documentary filings in Chapter 1 (relating to rules of administrative practice and procedure), except when modified by this subchapter. The DSP shall serve copies of the default service program on the Pennsylvania Office of Consumer Advocate, Pennsylvania Office of Small Business Advocate, the Commission's Office of Trial Staff, EGSs registered in the service territory and the RTO or other entity in whose control area the DSP is operating. Copies shall be provided upon request to other EGSs and shall be available at the DSP's public internet domain.

[(c)] (d) The first default service program shall be for a period of 2 to 3 years, or for a period necessary to comply with subsection [(d)](e)(4), unless another period is authorized by the Commission. Subsequent program terms will be determined by the Commission.

[(d)] (e) A default service program must include the following elements:

* * * * *

[(e)] (f) The Commission may, following notice and opportunity to be heard, direct that some or all DSPs file joint default service programs to acquire electric generation supply for all of their default service customers. In the absence of such a directive, some or all DSPs may jointly file default service programs or coordinate the scheduling of competitive bid solicitations to acquire electric generation for all of their default service customers. A multiservice territory procurement and implementation plan must comply with § 54.186.

[(f)] (g) DSPs shall include requests for waivers from the provisions of this subchapter in their default service program filings. For DSPs with less than 50,000 retail customers, the Commission will grant waivers to the extent necessary to reduce the regulatory, financial or technical burden on the DSP or to the extent otherwise in the public interest.

§ 54.186. Default service procurement and implementation plans.

* * * * *

(b) A DSP's procurement plan must adhere to the following standards:

(1) The procurement plan shall be designed [to acquire electric generation supply at prevailing market prices to meet the DSP's anticipated default service obligation at reasonable costs.] so that the electric power procured under § 54.184(c) (relating to default service provider obligations) includes a prudent mix of the following:

- (i) Spot market purchases.
- (ii) Short-term contracts.

(iii) Long-term purchase contracts, entered into as a result of auction, request for proposal or bilateral contract that is free of undue influence, duress or favoritism of more than 4 and not more than 20 years. The default service provider shall have sole discretion to determine the source and fuel type. Long-term purchase contracts must be 25% or less of the DSP's projected default service load unless the Commission determines for good cause that a greater portion of load is necessary to achieve least cost procurement.

(A) EDCs or Commission-approved alternative suppliers may offer large customers with a peak demand of 15 megawatts or greater at one meter at a location in its service territory any negotiated rate for service at all of the customers' locations within the service territory for any duration agreed upon by the EDC or alternative supplier and the large customer.

(B) The Commission may determine that a contract is required to be extended for a period longer than 20 years if the extension is necessary to ensure adequate and reliable service at least cost to customers over time.

(2) A prudent mix of contracts shall be designed to ensure:

- (i) Adequate and reliable service.
- (ii) The least cost to customers over time.

(iii) Compliance with the requirements of paragraph (1)(iii).

[(2)] (3) DSPs with loads of 50 mW or less shall evaluate the cost and benefits of joining with other DSPs or affiliates in contracting for electric supply.

[(3)] (4) Procurement plans may include solicitations and contracts whose duration extends beyond the program period.

[(4)] (5) Electric generation supply shall be acquired by competitive bid solicitation processes, spot market energy purchases, **short and long-term contracts, auctions, bilateral contracts** or a combination of [both] them.

[(5)] (6) The DSP's supplier affiliate may participate in a competitive bid solicitation process used as part of the procurement plan subject to the following conditions:

* * * * *

(e) At the time the Commission evaluates the plan and prior to its approval, in determining if the DSP's plan obtains generation supply at the least cost, the Commission will consider the DSP's obligation to provide adequate and reliable service to customers and that the DSP has obtained a prudent

mix of contracts to obtain least cost on a long-term, short-term and spot market basis. The Commission will make specific findings which include the following:

(1) The DSP's plan includes prudent steps necessary to negotiate favorable generation supply contracts.

(2) The DSP's plan includes prudent steps necessary to obtain least cost generation supply contracts on a long-term, short-term and spot market basis.

(3) Neither the DSP nor its affiliated interest has withheld from the market any generation supply in a manner that violates Federal law.

§ 54.187. Default service rate design and the recovery of reasonable costs.

(a) The Commission may modify contracts or disallow costs when after a hearing the party seeking recovery of the costs of a procurement plan is found to be at fault for the following:

(1) Not complying with the Commission-approved procurement plan.

(2) The commission of fraud, collusion, or market manipulation with regard to these contracts.

(b) The costs incurred for providing default service [shall] may be recovered through a [default service rate schedule. The rate schedule shall be designed to recover fully all reasonable costs incurred by the DSP during the period default service is provided to customers, based on the average cost to acquire supply for each customer class] reconcilable automatic adjustment clause under 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments), all reasonable costs incurred under 66 Pa.C.S. § 2807(e)(3.9) (relating to obligation to serve) and a Commission-approved competitive procurement plan. The use of an automatic adjustment clause shall be subject to audit and annual review, consistent with 66 Pa.C.S. § 1307(d) and (e).

[(b)] (c) Except for rates available consistent with subsection [(f)] (g), a default service customer shall be offered a single rate option, which shall be identified as the PTC and displayed as a separate line item on a customer's monthly bill.

[(c)] (d) The rates charged for default service may not decline with the increase in kilowatt hours of electricity used by a default service customer in a billing period.

[(d)] (e) The PTC shall be designed to recover all default service costs, including generation, transmission and other default service cost elements, incurred in serving the average member of a customer class. An EDC's default service costs may not be recovered through the distribution rate. Costs currently recovered through the distribution rate, which are reallocated to the default service rate, may not be recovered through the distribution rate. The distribution rate shall be reduced to reflect costs reallocated to the default service rate.

[(e)] (f) A DSP shall use an automatic energy adjustment clause, consistent with 66 Pa.C.S. § 1307 [(relating to sliding scale of rates; adjustments)] and Chapter 75 (relating to alternate energy portfolio standards), to recover all reasonable costs incurred through compliance with the Alternative Energy Portfolio Stan-

dards Act (73 P.S. §§ 1648.1—1648.8). The use of an automatic adjustment clause shall be subject to audit and annual review, consistent with 66 Pa.C.S. § 1307(d) and (e), regarding fuel cost adjustment audits and automatic adjustment reports and proceedings.

[(f) (g) [A DSP may use an automatic energy adjustment clause to recover reasonable nonalternative energy default service costs. The use of an automatic adjustment clause shall be subject to audit and annual review, consistent with 66 Pa.C.S. § 1307(d) and (e).] A DSP may collect interest from retail customers on the recoveries of under collection of default service costs at the legal rate of interest. Refunds to customers for over recoveries shall be made with interest, at the legal rate of interest plus 2%.]

[(g) (h) The default service rate schedule must include rates that correspond to demand side response and demand side management programs, as defined in section 2 of the Alternative Energy Portfolio Standards Act (73 P.S. § 1648.2), when the Commission mandates these rates pursuant to its authority under 66 Pa.C.S. Chapter 1 (relating to general provisions).]

[(h) (i) Default service rates shall be adjusted on a quarterly basis [, or more frequently,] for all customer classes with a maximum registered peak load up to 25 kW, to ensure the recovery of costs reasonably incurred in acquiring electricity at prevailing market prices and to reflect the seasonal cost of electricity. DSPs may propose alternative divisions of customers by maximum registered peak load to preserve existing customer classes.]

[(i) (j) Default service rates shall be adjusted on a quarterly basis, or more frequently, for all customer classes with a maximum registered peak load of 25 kW to 500 kW, to ensure the recovery of costs reasonably incurred in acquiring electricity at prevailing market prices and to reflect the seasonal cost of electricity. DSPs may propose alternative divisions of customers by maximum registered peak load to preserve existing customer classes.]

[(j) (k) Default service rates shall be adjusted on a monthly basis, or more frequently, for all customer classes with a registered peak load of equal to or greater than 500 kW to ensure the recovery of costs reasonably incurred in acquiring electricity at prevailing market prices and to reflect the seasonal cost of electricity. DSPs may propose alternative divisions of customers by registered peak load to preserve existing customer classes.]

[(k) (l) When a supplier fails to deliver electric generation supply to a DSP, the DSP shall be responsible for acquiring replacement electric generation supply consistent with its Commission-approved contingency plan. When necessary to procure electric generation supply before the implementation of a contingency plan, a DSP shall acquire supply at prevailing market prices and fully recover all reasonable costs associated with this activity that are not otherwise recovered through its contract terms with the default supplier. The DSP shall follow acquisition strategies that reflect the incurrence of reasonable costs, consistent with 66 Pa.C.S. § 2807(e)(3) (relating to duties of electric distribution companies), when selecting from the various options available in these energy markets.]

§ 54.188. Commission review of default service programs and rates.

(a) A DSP shall file a plan for competitive procurement with the Commission and obtain Commission approval of the plan considering the standards in 66 Pa.C.S. § 2807(e)(3.1), (3.2), (3.3), and (3.4) (relating to duties of electric distribution companies) before the competitive process is implemented. The Commission shall hold hearings as necessary on the proposed plan. A default service program will initially be referred to the Office of Administrative Law Judge for further proceedings as may be required.

(b) [The Commission will issue an order within 7 months of a program’s filing with the Commission on whether the default service program demonstrates compliance with this subchapter and 66 Pa.C.S. §§ 2801—2812 (relating to the Electricity Generation Customer Choice and Competition Act)] If the Commission fails to issue a final order on the plan within 9 months of the date the plan is filed, the plan will be deemed approved and the DSP may implement the plan as filed. Costs incurred through an approved competitive procurement plan will be deemed to be the least cost over time as required under 66 Pa. C.S. § 2807(e)(3.4)(ii).

* * * * *

(d) [Upon receiving written notice, the Commission will have 1 business day, to approve or disapprove the results of a competitive bid solicitation process used by a DSP as part of its procurement plan. When the Commission does not act within 1 business day the results of the process will be deemed approved. The Commission will not certify or otherwise approve or disapprove a DSP’s spot market energy purchases made pursuant to a Commission-approved procurement plan. The Commission will monitor the DSP’s adherence to the terms of the approved default service program and 66 Pa.C.S. §§ 2801—2812 (relating to the Electricity Generation Customer Choice and Competition Act).] The Commission may initiate an investigation regarding implementation of the DSP’s default service program and, at the conclusion of the investigation, order remedies as may be lawful and appropriate. The Commission will not deny the DSP the recovery of its reasonable costs for purchases made pursuant to an approved competitive procurement process unless the DSP concealed or misled the Commission regarding its adherence to the program, or otherwise violated the provisions of this subchapter or the code. Except as provided under the Alternative Energy Portfolio Standards Act (73 P.S. §§ 1648.1—1648.8), the Commission may not order a DSP to procure power from a specific generation supplier, from a specific generation fuel type or from new generation only. At the time the Commission evaluates the plan and prior to approval, the Commission will consider the default service provider’s obligation to provide adequate and reliable service to customers and that the DSP has obtained a prudent mix of contracts to obtain least cost on a long-term, short-term and spot market basis. The Commission will make specific findings which include:

(1) The DSP’s plan includes prudent steps necessary to negotiate favorable generation supply contracts.

(2) The DSP’s plan includes prudent steps necessary to obtain least cost generation supply contracts on a long-term, short-term and spot market basis.

(3) Neither the DSP nor its affiliated interest has withheld from the market any generation supply in a manner that violates Federal law.

* * * * *

(g) If a customer chooses an alternative supplier and subsequently desires to return to the local distribution company for generation service, the local distribution company shall treat that customer exactly as it would any new applicant for energy service.

(h) A DSP may, in its sole discretion, offer large customers with a peak demand of 15 megawatts or greater at one meter location in its service territory any negotiated rate for service at all of the customers' locations within the service territory for any duration agreed upon by the DSP and the customer.

(1) Contract rates shall be subject to Commission review to ensure all costs are borne by the parties to the contract and no one else.

(2) If no costs related to the rates are borne by other customers, the Commission will approve the contract within 90 days of its filing at the Commission. If the Commission does not approve the contract within the 90-day period, it shall be deemed approved.

(i) The DSP shall offer residential and small business customers a generation supply service rate that shall change no more frequently than on a quarterly basis. Default service rates shall be reviewed by the Commission to ensure that the costs of providing service to each customer class are not subsidized by any other class.

[Pa.B. Doc. No. 10-772. Filed for public inspection April 30, 2010, 9:00 a.m.]

STATE BOARD OF NURSING

[49 PA. CODE CH. 21]

IV Therapy Functions for Licensed Practical Nurses

The State Board of Nursing (Board) proposes to amend §§ 21.141 and 21.145 (relating to definitions; and functions of the LPN) and to add §§ 21.145a and 21.145b (relating to prohibited acts; and IV therapy curriculum requirements), to read as set forth in Annex A. This proposal is intended to establish the requirements for licensed practical nurses to perform nursing functions involving intravenous access devices.

Effective Date

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

Statutory Authority

The proposed amendments are authorized under section 17.6 of the Practical Nurse Law (63 P. S. § 667.6) (act), which authorizes the Board to establish rules and regulations for the practice of practical nursing.

Background and Need for the Amendments

The proposed amendments are necessary due to the increased utilization of peripherally inserted central cath-

eters and other centrally inserted intravenous access devices in the patient population cared for in this Commonwealth's hospitals and health systems. In addition, patients are being transferred to long-term care facilities with increasing frequency with complex IV access devices in place. Licensed practical nurses (LPNs) in this Commonwealth are being asked to provide services to these patients. This proposal will standardize LPN practice across this Commonwealth related to IV access devices and will provide mandates for the educational program that must be provided for LPNs working with IV access devices to ensure patient safety.

Description of Proposed Amendments

§ 21.141. Definitions.

The Board proposes to add definitions of key terms used in its rulemaking regarding IV therapy. Specifically, the Board found it necessary to define the following terms: "bolus," "central venous catheter," "focused assessment," "IV access device," "peripheral short catheter," "peripheral midline catheter," "peripherally inserted central catheter (PICC)," and "titration of IV medications." The definitions used are consistent with those that are generally accepted by the health care community.

§ 21.145. Functions of the LPN.

The Board proposes to amend § 21.145. The Board proposes to update the language in § 21.145(a). In addition, the Board proposes to provide specific mandates which will require an LPN to consult with an RN and members of the patient's health care team authorized to issue orders for medical therapeutic or corrective measures (a CRNP, physician, physician assistant, podiatrist or dentist) and seek guidance if the patient's care needs exceed the LPN's scope of practice, surpass the LPN's knowledge, skill or ability, or if the patient's condition becomes unstable or immediate assistance is needed. These provisions should help to ensure that LPNs do not exceed their authorized scope of practice and an LPN attempting to provide care beyond the LPN's ability does not compromise patient care.

The Board proposes to require that an LPN obtain instruction and supervision if the LPN is implementing nursing practices or procedures that are new or unfamiliar to the LPN. This provision is intended to ensure that the LPN can competently perform all practices and procedures the LPN is expected to perform.

The Board proposes to require an LPN to follow the written, established policies and procedures of the employing facility that are consistent with the act. The prior absence of such a provision has hampered the Board's ability to protect the public when an LPN has failed to conform his conduct to facility policy, creating a risk that negligence and patient harm will occur, but where no other statutory or regulatory provision has been violated.

Finally, the Board proposes to strike the current language in § 21.145(f) and (g) regarding venipuncture and IV fluids which is greatly out of date, is not consistent with the current education and on-the-job training of LPNs, and is not consistent with the current utilization of LPNs in this Commonwealth's health care facilities. The Board proposes to replace this language with new § 21.145(f) and (g).

The proposed new § 21.145(f) would provide that an LPN may only perform IV therapy acts for which the LPN possesses the knowledge, skill and ability to safely perform and shall perform these acts under direction and

supervision as set forth therein. Paragraph (1) generally provides that an RN, CRNP, physician, physician assistant, podiatrist or dentist shall supervise an LPN performing IV therapy acts. Paragraph (2) allows an LPN to be under either physical presence supervision or electronic communication when the patient's condition is stable and predictable. Paragraph (3) provides for the level of supervision required if the patient's condition is not stable and predictable; in these cases, physical presence of the supervisor is required.

Section 21.145(g) provides that only LPNs who have met the education and training requirements in § 21.145b may perform IV therapy acts. The paragraphs that follow set forth the specific IV therapy acts that LPNs may perform. Notably, the proposed rulemaking does not expand LPNs scope of practice related to the insertion or removal of IV access devices, as under current regulations, § 21.145(g)(8) authorizes an LPN to insert or remove only a peripheral short catheter. The remaining enumerated functions in subsection (g) apply to all IV access devices; however, an LPN may not insert or remove any other type of IV access device.

§ 21.145a. Prohibited acts.

The Board proposes to add a new § 21.145a, which will set forth the IV therapy acts that an LPN is prohibited from performing.

§ 21.145b. IV therapy curriculum requirements.

The Board proposes to add a new § 21.145b, which will set forth the curriculum requirements that an LPN will have to complete to perform IV therapy acts as set forth in § 21.145(g). The educational component may be included in the LPN curriculum in the approved schools of practical nursing in this Commonwealth or may be stand-alone courses offered through the approved schools of practical nursing or through health care facilities.

Compliance with Executive Order 1996-1

The Board provided an exposure draft of its proposal to stakeholders in early 2007. The Hospital and Healthsystem Association of Pennsylvania, the Pennsylvania Homecare Association and several individual nurses provided comments and suggestions to the Board that were incorporated into the proposed rulemaking. In addition, comments and suggestions were provided by the Independent Regulatory Review Commission (IRRC).

Fiscal Impact and Paperwork Requirements

The proposed amendments will not have an adverse fiscal impact on the Commonwealth or its political subdivisions as the Board is self-supporting. The proposed amendments will not impose any additional paperwork requirements upon the Commonwealth or its political subdivisions. To the extent that private sector providers of practical nursing education will be required to amend their curricula, there may be costs associated with the proposal. However, it is the Board's understanding, after meeting with educational program officials that the programs are willing to amend their curricula to meet the current demands of practice on LPNs. In addition, based on its meetings with representatives of HAP, the majority of hospitals and health care systems in this Commonwealth currently have IV therapy training programs for LPNs.

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 21, 2010, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Ann Steffanic, Board Administrator, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

ANN O'SULLIVAN,
Chair

Fiscal Note: 16A-5122. 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 21. STATE BOARD OF NURSING
Subchapter B. PRACTICAL NURSES
GENERAL PROVISIONS

§ 21.141. Definitions.

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

* * * * *

Bolus—A concentrated medication or solution given rapidly over a short period of time.

Central venous catheter—An intravenous (IV) catheter, the tip of which terminates in the superior vena cava and may be either tunneled, implanted, or percutaneously inserted.

* * * * *

Focused assessment—Appraisal of an individual's current status and situation, which contributes to comprehensive assessment by the registered nurse and supports ongoing data collection.

* * * * *

IV access device—A centrally or peripherally inserted catheter used for the purpose of intravenous infusion therapy, including peripheral short catheters, peripheral midline catheters, peripherally inserted central catheters and central catheters.

* * * * *

PICC—Peripherally inserted central catheter—An IV catheter, the tip of which terminates in the superior vena cava and is confirmed by chest x-ray.

* * * * *

Peripheral midline catheter—A peripherally inserted catheter, the tip of which terminates no further than the axilla and is between 3 inches and 8 inches (7.5 cm and 20 cm) in length.

Peripheral short catheter—A venous access device less than 3 inches (7.5 cm) in length.

* * * * *

Titration of IV medications—A process by which medication is administered and dosages are adjusted through a continuous medication-containing intravenous infusion (such as vasoactive drugs, anticoagulants, psychotropic drugs, neuromuscular drugs, hormones, and the like) in order to effect a desired state based upon patient assessment data and prescribed parameters.

§ 21.145. Functions of the LPN.

(a) The LPN is prepared to function as a member of the health-care team by exercising sound nursing judgment based on preparation, knowledge, [**skills, understandings and past experiences in nursing situations**] **experience in nursing and competency**. The LPN participates in the planning, implementation and evaluation of nursing care **using focused assessment** in settings where nursing takes place.

(1) An LPN shall communicate with an RN and the patient's health care team members to seek guidance when:

(i) The patient's care needs exceed the licensed practical nursing scope of practice.

(ii) The patient's care needs surpass the LPN's knowledge, skill or ability.

(iii) The patient's condition deteriorates or there is a significant change in condition, the patient is not responding to therapy, the patient becomes unstable or the patient needs immediate assistance.

(2) An LPN shall obtain instruction and supervision if implementing new or unfamiliar nursing practices or procedures.

(3) An LPN shall follow the written, established policies and procedures of the facility that are consistent with the act.

* * * * *

(f) [The LPN may perform venipuncture and administer and withdraw intravenous fluids only if the following conditions are met:

(1) The LPN has received and satisfactorily completed a Board approved educational program which requires study and supervised clinical practice intended to provide training necessary for the performance of venipuncture and the administration and withdrawal of intravenous fluids as authorized by this section.

(2) A specific written order has been issued by a licensed physician for an individual patient under the care of a licensed physician.

(3) The LPN complies with written policies and procedures which are established by a committee of nurses, physicians, pharmacists and the adminis-

tration of the agency or institution employing or having jurisdiction over the LPN and which set forth standards, requirements and guidelines for the performance of venipuncture by the LPN and for the administration and withdrawal of intravenous fluids by the LPN. A current copy of the policies and procedures shall be provided to the LPN at least once every 12 months. The policies and procedures shall include standards, requirements and guidelines which:

(i) List, identify and describe the intravenous fluids which may be administered by the LPN. The LPN is not authorized to administer the following intravenous fluids:

(A) Antineoplastic agents.

(B) Blood and blood products.

(C) Total parenteral nutrition.

(D) Titrated medications and intravenous push medications other than heparin flush.

(ii) List, identify and describe the circumstances under which venipuncture may be performed, including technical and clinical indications.

(iii) List, identify, describe and explain principles, including technical and clinical indications, necessary for the identification and treatment of possible adverse reactions.

(iv) Provide for and require inservice instruction and supervised practice to insure competent performance of venipuncture and competent administration and withdrawal of intravenous fluids.

(4) An accurate record is made concerning:

(i) The time of puncture or injection or withdrawal of the intravenous fluid.

(ii) The type of intravenous fluid injected.

(iii) The amount of intravenous fluid injected.

(iv) The site of the puncture of injection.

(v) Reactions to the puncture or the intravenous fluid injected.]

An LPN may perform only the IV therapy functions for which the LPN possesses the knowledge, skill and ability to perform in a safe manner, except as limited under § 21.145a (relating to prohibited acts), and only under supervision as required under paragraph (l).

(1) An LPN may initiate and maintain IV therapy only under the direction and supervision of a licensed professional nurse or health care provider authorized to issue orders for medical therapeutic or corrective measures (such as a CRNP, physician, physician assistant, podiatrist or dentist).

(2) Prior to the initiation of IV therapy, an LPN shall:

(i) Verify the order and identity of the patient.

(ii) Assess the patient for allergies, fluid and medication compatibilities.

(iii) Assess the patient's circulatory system and infusion site.

(iv) Assess all equipment.

(v) Instruct the patient regarding the risk and complication of therapy.

(3) Maintenance of IV therapy by an LPN must include ongoing observation and focused assessment of the patient, monitoring the IV site and maintaining the equipment.

(4) For a patient whose condition is determined by the LPN's supervisor to be stable and predictable, and rapid change is not anticipated, the supervisor may supervise the LPN's provision of IV therapy by physical presence or electronic communication. If supervision is provided by electronic communication, the LPN shall have access to assistance readily available.

(5) In the following cases, an LPN may provide IV therapy only when the LPN's supervisor is physically present in the immediate vicinity of the LPN and immediately available to intervene in the care of the patient:

(i) When a patient's condition is critical, fluctuating, unstable or unpredictable.

(ii) When a patient has developed signs and symptoms of an IV catheter-related infection, venous thrombosis or central line catheter occlusion.

(iii) When a patient is receiving hemodialysis.

(g) [The Board will issue annually to the LPN definitive information describing the nature, scope and extent of authorized functions and practice concerning immunization, skin testing, venipuncture and the administration and withdrawal of intravenous fluids.]

An LPN who has met the education and training requirements of § 21.145b (relating to IV therapy curriculum requirements) may perform the following IV therapy functions, except as limited under § 21.145a and only under supervision as required under subsection (f):

(1) Adjustment of the flow rate on IV infusions.

(2) Observation and reporting of subjective and objective signs of adverse reactions to any IV administration and initiation of appropriate interventions.

(3) Administration of IV fluids and medications.

(4) Performance of site care.

(5) Performance of maintenance.

(6) Discontinuance of a medication or fluid infusion, including infusion devices.

(7) Conversion of a continuous infusion to an intermittent infusion.

(8) Insertion or removal of a peripheral short catheter.

(9) Maintenance, monitoring and discontinuance of blood, blood components and plasma volume expanders.

(10) Administration of solutions to maintain potency of an IV access device via direct push or bolus route.

(11) Maintenance and discontinuance of IV medications and fluids given via a patient-controlled administration system.

(12) Administration, maintenance and discontinuance of parenteral nutrition and fat emulsion solutions.

(13) Collection of blood specimens from an IV access device.

(Editor's Note: The following sections are new and the text has been printed in regular print to enhance readability.)

§ 21.145a. Prohibited acts.

An LPN may not perform the following IV therapy functions:

(1) Initiate administration of blood, blood components and plasma volume expanders.

(2) Administer tissue plasminogen activators, immunoglobulins, antineoplastic agents or investigational drugs.

(3) Access a central venous route access device used for hemodynamic monitoring.

(4) Administer medications or fluids via arterial lines.

(5) Administer medications via push or bolus route.

(6) Administer fibrinolytic or thrombolytic agents to de clot any IV access device.

(7) Administer medications requiring titration.

(8) Insert or remove any IV access device, except a peripheral short catheter.

(9) Access or program an implanted IV infusion pump.

(10) Administer IV medications for the purpose of procedural sedation or anesthesia.

(11) Administer fluids or medications via an epidural, intrathecal, intraosseous or umbilical route, or via a ventricular reservoir.

(12) Administer medications or fluids via an arteriovenous fistula or graft, except for dialysis.

(13) Perform repair of a central venous route access device or PICC.

(14) Perform therapeutic phlebotomy.

(15) Direct access of implantable devices.

§ 21.145b. IV therapy curriculum requirements.

An IV therapy course provided as part of the LPN education curriculum as set forth in § 21.203 (relating to specific curriculum requirements for practical nursing programs) or as a stand-alone course offered by a licensed health care facility shall include instruction in the following topics:

(1) IV Infusion Therapy, as follows:

(i) Definition of IV therapy.

(ii) Indications:

(A) Fluid volume maintenance.

(B) Fluid volume replacement.

(C) Medication administration.

(D) Blood and blood product maintenance, monitoring and discontinuation.

(E) Nutritional support.

(iii) Types of vascular access delivery devices:

(A) Venous access devices.

(B) Central venous access devices.

(C) Peripherally inserted central venous access devices.

(iv) Age-related considerations and IV therapy (generally and within each major area as appropriate):

- (A) Pediatric patients.
- (B) Adult patients.
- (C) Elderly patients.
- (2) Legal implications for IV nursing practice:
 - (i) *Pennsylvania Code*—Title 49, Chapter 21, Subchapter B. Practical Nurses.
 - (ii) Institutional policy and procedure.
 - (iii) Standards of practice.
 - (iv) Accountability in infusion therapy.
 - (v) Malpractice liability.
 - (vi) Documentation.
 - (vii) Quality assurance.
 - (viii) Continuing education.
 - (ix) Patient rights.
- (3) Related anatomy and physiology (including age-related differences).
- (4) Fundamentals of fluid balance and electrolyte balance (including age-related differences).
- (5) Equipment and supplies used in the preparation and administration of IV therapy:
 - (i) Administration sets:
 - (A) Primary.
 - (B) Secondary or piggyback, saline lock, Y type administration with controlled volume, filters.
 - (ii) Needleless systems.
 - (iii) Venous access devices.
 - (iv) Infusion site preparation and site dressing materials.
 - (v) Infusion regulation systems (pumps and controllers).
 - (vi) Labels.
 - (vii) Hanging devices.
- (6) Parenteral solutions and indications for use (isotonic, hypotonic, hypertonic).
- (7) Infection control and safety issues:
 - (i) Transmission.
 - (ii) Types of infections:
 - (A) Local.
 - (B) Systemic.
 - (iii) Prevention measures.
 - (iv) Standard precautions.
- (8) Insertion of peripheral short catheters (theory and lab):
 - (i) Equipment.
 - (ii) Site selection.
 - (iii) Site preparation.
 - (iv) Inserting the IV access device.
 - (v) Dressing the site.
 - (vi) Documentation.
- (9) Administration, maintenance and monitoring of peripheral IV therapy (theory and lab):

- (i) Focused assessment pertaining to IV therapy.
- (ii) Calculating IV rate.
- (iii) Terminology.
- (iv) Drug compatibility.
- (v) Drug information.
- (vi) Methods/technique of administering IV medications/fluids.
- (vii) Continuous and intermittent monitoring of IV medications/fluids.
- (viii) Local complications and nursing interventions:
 - (A) Phlebitis/thrombosis.
 - (B) Infiltration/extravasation.
 - (C) Catheter displacement.
 - (D) Occlusion.
 - (E) Hematoma.
 - (F) Cellulitis.
 - (G) Local infection.
- (ix) Systemic complications:
 - (A) Sepsis.
 - (B) Medication and fluid interactions.
 - (C) Allergic reactions.
 - (D) Embolism.
- (x) Documentation.
- (xi) Discontinuing a peripheral IV.
- (10) Centrally and peripherally placed vascular access devices:
 - (i) Indications for centrally placed devices.
 - (ii) Disadvantages and advantages.
 - (iii) Placement of devices:
 - (A) Review anatomy.
 - (B) Usual sites.
 - (C) Types of devices:
 - (I) Tunneled.
 - (II) Nontunneled.
 - (III) Implanted ports.
 - (IV) PICC.
 - (iv) Insertion-related complications:
 - (A) Pneumothorax.
 - (B) Air embolism.
 - (C) Catheter malposition.
 - (D) Mediastinal injury.
 - (E) Hemothorax.
 - (F) Chylothorax.
 - (G) Hydrothorax.
 - (H) Brachial plexus injury.
 - (I) Arterial laceration.
 - (J) Extravascular malposition.
 - (K) Intravascular malposition.
 - (L) Pericardial tamponade.
 - (v) Long-term complications:

- (A) Dislodgement.
- (B) Air embolism.
- (C) Local infection.
- (D) Sepsis.
- (E) Catheter migration.
- (F) Catheter occlusion.
- (G) Vessel thrombosis.
- (H) Damaged catheter.
- (I) Superior Vena Cava Syndrome.
- (J) Skin erosion.
- (vi) Maintaining central venous infusions (differentiate for types of access devices):
 - (A) Checking placement.
 - (B) Changing dressings.
 - (C) Changing IV tubing and solution.
 - (D) Changing catheter cap.
 - (E) Flushing.
 - (F) Administering primary or secondary infusion.
 - (G) Obtaining a blood sample.
 - (H) Determining intake and output.
 - (I) Documenting.
 - (11) Special considerations:
 - (i) Setting:
 - (A) Acute care.
 - (B) Home care.
 - (C) Long-term care.
 - (D) Ambulatory care.
 - (E) Hospice care.
 - (ii) Patient education.
 - (iii) Ethical/cultural issues.
 - (iv) Other—geographical practice setting differences.

[Pa.B. Doc. No. 10-773. Filed for public inspection April 30, 2010, 9:00 a.m.]

STATE REAL ESTATE COMMISSION

[49 PA. CODE CH. 35] Seller Property Disclosure Statement

The State Real Estate Commission (Commission) proposes to add §§ 35.284a and 35.335a (relating to disclosures required by the Real Estate Seller Disclosure Law; and seller's property disclosure statement) to read as set forth in Annex A.

A. *Effective Date*

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

B. *Statutory Authority*

The regulations are proposed under the authority of section 7304(a) of the Real Estate Seller Disclosure Law

(SDL) (68 Pa.C.S. § 7304(a)), and sections 404 and 604(a)(15.1) of the Real Estate Licensing and Registration Act (RELRA) (63 P. S. §§ 455.404 and 455.604(a)(15.1)).

C. *Background and Purpose*

Section 604(a)(15.1) of the RELRA (63 P. S. § 455.604(a)(15.1)) makes failing to provide a disclosure required by another law in connection with a real estate transaction a disciplinary offense. The SDL, which replaced the repealed Real Estate Seller Disclosure Act (SDA) (68 P. S. §§ 1021—1036), establishes disclosure duties on real estate licensees and sellers for certain types of residential real estate transfers and delineates specific aspects of the property that must be disclosed by the seller to a prospective buyer.

Specifically, section 7313(c) of the SDL (68 Pa.C.S. § 7313(a)) requires seller's agents to advise sellers of their responsibilities under section 7303 of the SDL (68 Pa.C.S. § 7303) and provide sellers with a property disclosure statement. Under the SDL, sellers are required to: disclose any known material defects to the buyer before signing an agreement of transfer by completing a property disclosure statement that meets or exceeds the requirements of section 7304 of the SDL (68 Pa.C.S. § 7304), deliver the completed property disclosure statement to buyers or buyers agent under section 7305 of the SDL (68 Pa.C.S. § 7305), and notify buyers of any inaccuracies in accordance with section 7307 of the SDL (68 Pa.C.S. § 7307).

Under section 7304(a) of the SDL, the Commission is required to promulgate a property disclosure statement that satisfies the requirements of subsection (b). Until that time, under subsection (c), the statement contained in the SDA satisfies the requirements of the SDL.

Having reviewed the SDA property disclosure statement for 5 years and determining that it satisfactorily reflected the requirements of the SDL, the Commission attempted to promulgate a final-form regulation, with proposed rulemaking omitted under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law (45 P. S. §§ 1201 and 1202), that included the SDA property disclosure statement and specific duties on licensees as set forth in the SDL. On May 26, 2006, the Commission submitted the proposed-omitted final form regulations to the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC).

After extensive discussions with the HPLC, on June 7, 2006, the Commission tolled the review of the regulations under section 5.1(g)(1) of the Regulatory Review Act (71 P. S. § 745.5a(g)(1)), to allow it to make revisions to the text of the Annex recommended by the HPLC. Ultimately, after being requested by the HPLC to resubmit the regulations in proposed form, the Commission withdrew the regulations on June 13, 2006.

After that withdrawal, the Commission considered whether to further amend the previously submitted regulations and solicited comment from stakeholders. Following extended discussions at regularly scheduled meetings, the Commission voted to resubmit the regulations in proposed form. The proposed regulations are essentially the same disclosure form proposed in 2006. Two sections are rearranged to enhance clarity.

D. Description of Proposed Regulations

§ 35.284a—Disclosures required by the Real Estate Seller Disclosure Law.

Proposed subsection (a) tracks the duties on seller's agents under the SDL. Seller's agents must advise sellers of their duty to disclose known material defects with the property, provide sellers with a property disclosure statement that meets or exceeds the disclosures in proposed § 35.335a, and deliver either the completed property disclosure statement or one marked "refused" to buyers or buyers agent prior to the execution of an agreement of sale.

Proposed subsection (b) tracks the duties on buyer's agents under the SDL. Buyer's agents must advise buyers that sellers have the duty to disclose known material defects with the property, and deliver either the completed property disclosure statement or one marked "refused" to the buyer prior to the execution of an agreement of sale.

Proposed subsection (c) conforms to section 7310 of the SDL (68 Pa.C.S. § 7310) by requiring seller's agents and buyer's agents to disclose, to the buyer in writing, material defects that the seller did not disclose and of which the licensee has actual knowledge. New subsection (d) provides that neither seller's agents nor buyer's agents are required to conduct an independent investigation to confirm seller's disclosures on the property disclosure statement.

While the SDL does not specifically state that seller may refuse to complete a property disclosure statement, section 7311 of the SDL (68 Pa.C.S. § 7311) addresses the penalty on a seller for failing to comply with the SDL. Because, in the Commission's experience it is aware that some sellers refuse to complete the property disclosure statement, and because section 7311 specifically states that a residential real estate transaction will not be invalidated solely because of a failure to comply with the SDL, the Commission added refusal language to both subsections (a) and (b) to provide guidance to licensees.

§ 35.335—Seller's property disclosure statement.

Proposed § 35.335a sets forth the Commission's property disclosure statement. Its language is identical to the property disclosure statement previously set forth in the SDA. The Commission believes that this property disclosure statement meets the requirements of section 7304(b) of the SDL. Further, because section 7304(a) permits sellers to provide a disclosure statement that exceeds the requirements of section 7304(b), and in the Commission's experience, licensees generally provided a more comprehensive disclosure, the language previously set forth in the SDA suffices as a minimum requirement.

E. Compliance with Executive Order 1996-1

In compliance with Executive Order 1996-1, the Commission extended an invitation to the following boards, associations, real estate education providers and licensees to preliminarily review and comment on the Commission's draft regulatory proposal: Pennsylvania Association of Realtors, Realtors Educational Institute, Institute of Real Estate Studies, Polley Associates, Pennsylvania Cemetery & Funeral Association, Pennsylvania Bar Association, Allegheny Highland Association, Greater Allegheny-Kiski Area Board, Allegheny Valley Board, Beaver County Association, Bradford-Sullivan County Association, Bucks

County Board, Butler County Association, Cambria-Somerset Association, Carbon County Association, Carlisle Association, Central Montgomery County Association, Central Susquehanna Valley Board, Central Westmoreland Board, Centre County Association, Chester County Association, Clearfield-Jefferson Association, Delaware Valley Realtors Association, East Montgomery County Association, Elk-Cameron County Board, Greater Erie Board, Fayette County Board, Franklin County Association, Greenville Area Board, Hanover-Adams County Association, Greater Harrisburg Association, Greater Hazleton Association, Huntingdon County Board, Indiana County Board, Lancaster County Association, Lawrence County Board, Lebanon County Association, Lehigh Valley Association, McKean County Association, Greater Meadville Board, Greater Mercer County Board, Mifflin-Juniata County Board, Mon Yough Association, Monongahela Valley Board, Greater Philadelphia Association, North Central Penn Board, Pike/Wayne Association, Pocono Mountains Association, Reading-Berks Association, Realtors Association of Metropolitan Pittsburgh, Schuylkill County Board, Greater Scranton Association, Tri-State Commercial and Industrial Association, Warren County Board, Washington-Greene Association, West Branch Valley Association, Westmoreland West Association, Greater Wilkes-Barre Association, York County Association, the Pennsylvania Federation of Housing Counselors and Agencies, and the Real Estate Consumer Council. The Commission considered comments submitted to it in drafting the proposal.

F. Fiscal Impact and Paperwork Requirements

The regulations should have no fiscal impact on, or create additional paperwork for, the regulated community or the political subdivisions of this Commonwealth. Real estate licensees have been providing property disclosure statements to sellers and buyers of applicable residential real estate since the enactment of the SDA. This proposal does not alter that requirement.

G. Sunset Date

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

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 21, 2010, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the HPLC and the SCP/PLC. 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 Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

I. Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed regulations to Judith Pachter Schulder, Counsel,

State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649 or jschulder@state.pa.us within 30 days of publication of this proposed rulemaking. Reference No. 16A-5618 (Seller Property Disclosure Statement), when submitting comments.

JOSEPH TARANTINO, Jr.,
Chairperson

Fiscal Note: 16A-5618. 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 35. STATE REAL ESTATE COMMISSION

Subchapter E. STANDARDS OF CONDUCT AND PRACTICE

GENERAL ETHICAL RESPONSIBILITIES

§ 35.284a. Disclosures required by the Real Estate Seller Disclosure Law.

(a) Seller’s agents shall:

(1) Advise sellers of their duty to disclose any known material defects with the property by completing a property disclosure statement that satisfies the requirements in 68 Pa.C.S.A. § 7304 (relating to disclosure form).

(2) Provide sellers with a property disclosure statement that meets or exceeds the disclosures set forth in § 35.335a (relating to seller property disclosure statement).

(3) Deliver the completed property disclosure statement or the property disclosure statement marked “refused” to the buyer or buyer’s agent prior to the execution of an agreement of sale.

(b) Buyer’s agents shall:

(1) Advise buyers that sellers have a duty to provide a completed property disclosure statement.

(2) Deliver the completed property disclosure statement or the property disclosure statement marked “refused” to the buyer prior to the execution of an agreement of sale.

(c) Both seller’s agents and buyer’s agents (licensees) are required to disclose, to the buyer in writing, all material defects that are not otherwise disclosed and of which the licensee has actual knowledge.

(d) Neither seller’s agents nor buyer’s agents are required to conduct an independent investigation to confirm seller’s disclosures on the property disclosure statement.

REAL ESTATE DOCUMENTS

§ 35.335a. Seller property disclosure statement.

The seller’s property disclosure statement must, at a minimum, contain the following disclosures:

Seller’s Property Disclosure Statement

Property address: _____

Seller: _____

A seller must disclose to a buyer all known material defects about property being sold that are not readily observable. This disclosure statement is de-

signed to assist the seller in complying with disclosure requirements and to assist the buyer in evaluating the property being considered.

This statement discloses the seller’s knowledge of the condition of the property as of the date signed by the seller and is not a substitute for any inspections or warranties that the buyer may wish to obtain. This statement is not a warranty of any kind by the seller or a warranty or representation by any listing real estate broker, any selling real estate broker or their agents. The buyer is encouraged to address concerns about the condition of the property that may not be included in this statement. This statement does not relieve the seller of the obligation to disclose a material defect that may not be addressed on this form.

A material defect is a problem with the property or any portion of it that would have a significant adverse impact on the value of the residential real property or that involves an unreasonable risk to people on the land. The fact that a structural element, system or subsystem is near, at or beyond the end of its normal useful life is not by itself a material defect.

(1) **Seller’s expertise.** The seller does not possess expertise in contracting, engineering, architecture or other areas related to the construction and condition of the property and its improvements, except as follows: _____

(2) **Occupancy.** Do you, the seller, currently occupy this property? ____ yes ____ no

If “no,” when did you last occupy the property? _____

(3) **Roof.**

(i) Date roof was installed: _____
Documented? ____ yes ____ no ____ unknown

(ii) Has the roof been replaced or repaired during your ownership? ____ yes ____ no

If “yes,” were the existing shingles removed? ____ yes ____ no ____ unknown

(iii) Has the roof ever leaked during your ownership? ____ yes ____ no

(iv) Do you know of any problems with the roof, gutters or downspouts? ____ yes ____ no

Explain any “yes” answers that you give in this section: _____

(4) **Basements and crawl spaces (Complete only if applicable).**

(i) Does the property have a sump pump? ____ yes ____ no ____ unknown

(ii) Are you aware of any water leakage, accumulation or dampness within the basement or crawl space? ____ yes ____ no

If “yes,” describe in detail: _____

(iii) Do you know of any repairs or other attempts to control any water or dampness problem in the basement or crawl space? ____ yes ____ no

If "yes," describe the location, extent, date and name of the person who did the repair or control effort: _____

(5) Termites/wood destroying insects, dry rot, pests.

(i) Are you aware of any termites/wood destroying insects, dry rot or pests affecting the property? _____ yes _____ no

(ii) Are you aware of any damage to the property caused by termites/wood destroying insects, dry rot or pests? _____ yes _____ no

(iii) Is your property currently under contract by a licensed pest control company? _____ yes _____ no

(iv) Are you aware of any termite/pest control reports or treatments for the property in the last 5 years? _____ yes _____ no

Explain any "yes" answers that you give in this section: _____

(6) Structural items.

(i) Are you aware of any past or present water leakage in the house or other structures? _____ yes _____ no

(ii) Are you aware of any past or present movement, shifting, deterioration or other problems with walls, foundations or other structural components? _____ yes _____ no

(iii) Are you aware of any past or present problems with driveways, walkways, patios or retaining walls on the property? _____ yes _____ no

Explain any "yes" answers that you give in this section: _____

When explaining efforts to control or repair, please describe the location and extent of the problem and the date and person by whom the work was done, if known: _____

(7) Additions/remodeling. Have you made any additions, structural changes or other alterations to the property? _____ yes _____ no

If "yes," please describe: _____

(8) Water and sewage.

(i) What is the source of your drinking water?

_____ public _____ community system
_____ well on property _____ other

If "other," please explain: _____

(ii) If your drinking water source is not public:

When was your water last tested? _____

What was the result of the test? _____

Is the pumping system in working order?

_____ yes _____ no

If "no," please explain: _____

(iii) Do you have a softener, filter or other purification system?

_____ yes _____ no

If "yes," is the system: _____ leased _____ owned

(iv) What is the type of sewage system?
_____ public sewer _____ private sewer _____ septic tank _____ cesspool _____ other

If "other," please explain: _____

(v) Is there a sewage pump? _____ yes _____ no

If "yes," is it in working order? _____ yes _____ no

(vi) If applicable, when was the septic system or cesspool last serviced? _____

(vii) Is either the water or sewage system shared? _____ yes _____ no

If "yes," please explain: _____

(viii) Are you aware of any leaks, backups or other problems relating to any of the plumbing, water and sewage-related items? _____ yes _____ no

If "yes," please explain: _____

(9) Plumbing system.

(i) Type of plumbing: _____ copper _____ galvanized _____ lead _____ PVC _____ unknown _____ other

If "other," please explain: _____

(ii) Are you aware of any problems with any of your plumbing fixtures (including, but not limited to: kitchen, laundry or bathroom fixtures, wet bars, hot water heater, etc.)? _____ yes _____ no

If "yes," please explain: _____

(10) Heating and air conditioning.

(i) Type of air conditioning: _____ central electric _____ central gas _____ wall _____ none

(ii) List any areas of the house that are not air conditioned: _____

(iii) Type of heating: _____ electric _____ fuel oil _____ natural gas _____ other

If "other," please explain: _____

(iv) List any areas of the house that are not heated: _____

(v) Type of water heating: _____ electric _____ gas
_____ solar _____ other

If "other," please explain: _____

(vi) Are you aware of any underground fuel tanks on the property? _____ yes _____ no

If "yes," please describe: _____

Are you aware of any problems with any item in this section? _____ yes _____ no

If "yes," please explain: _____

(11) **Electrical system.** Are you aware of any problems or repairs needed in the electrical system? _____ yes _____ no

If "yes," please explain: _____

(12) Equipment and appliances.

The following items included in the sale are in need of repair or replacement: _____

(13) Land (soils, drainage and boundaries).

(i) Are you aware of any fill or expansive soil on the property? _____ yes _____ no

(ii) Are you aware of any sliding, settling, earth movement, upheaval, subsidence or earth stability problems that have occurred on or that affect the property? _____ yes _____ no

NOTE TO BUYER: Some properties may be subject to mine subsidence damage. Maps of the counties and mines where mine subsidence damage may occur and mine subsidence insurance are available through:

Department of Environmental Protection
Mine Subsidence Insurance Fund
25 Technology Drive, California Technology Park
Coal Center, PA 15413
(in PA) (800) 922-1678
(outside PA) (724) 769-1100

(iii) Are you aware of any existing or proposed mining, strip mining or any other excavations that might affect this property? _____ yes _____ no

(iv) To your knowledge, is this property or part of it located in a flood zone or wetlands area? _____ yes _____ no

(v) Do you know of any past or present drainage or flooding problems affecting the property? _____ yes _____ no

(vi) Do you know of any encroachments, boundary line disputes or easements? _____ yes _____ no

NOTE TO BUYER: Most properties have easements running across them for utility services and

other reasons. In many cases, the easements do not restrict the ordinary use of the property, and the seller may not be readily aware of them. Buyers may wish to determine the existence of easements and restrictions by examining the property and ordering an abstract of title or searching the records in the Office of the Recorder of Deeds for the county before entering into an agreement of sale.

(vii) Are you aware of any shared or common areas (for example, driveways, bridges, docks, walls, etc.) or maintenance agreements? _____ yes _____ no

Explain any "yes" answers that you give in this section: _____

(14) Hazardous substances.

(i) Are you aware of any underground tanks or hazardous substances present on the property (structure or soil), including, but not limited to, asbestos, polychlorinated byphenyls (PCBs), radon, lead paint, urea-formaldehyde foam insulation (UFFI), etc.? _____ yes _____ no

(ii) To your knowledge, has the property been tested for any hazardous substances? _____ yes _____ no

(iii) Do you know of any other environmental concerns that might impact upon the property? _____ yes _____ no

Explain any "yes" answers that you give in this section: _____

(15) Condominiums and other homeowners associations (complete only if applicable).

Type: _____ condominium* _____ cooperative
_____ homeowners association _____ other

If "other," please explain: _____

NOTICE REGARDING
CONDOMINIUMS AND COOPERATIVES:

According to section 3407 of the Uniform Condominium Act (68 Pa.C.S. § 3407) (relating to resales of units) and 68 Pa.C.S. § 4409 (relating to resales of cooperative interests), a buyer of a resale unit in a condominium or cooperative must receive a certificate of resale issued by the association in the condominium or cooperative. The buyer will have the option of canceling the agreement with return of all deposit moneys until the certificate has been provided to the buyer and for 5 days thereafter or until conveyance, whichever occurs first.

(16) Miscellaneous.

(i) Are you aware of any existing or threatened legal action affecting the property? _____ yes _____ no

(ii) Do you know of any violations of Federal, State or local laws or regulations relating to this property? _____ yes _____ no

(iii) Are you aware of any public improvement, condominium or homeowner association assessments against the property that remain unpaid or of any violations of zoning, housing, building safety or fire ordinances that remain uncorrected? ___ yes ___ no

(iv) Are you aware of any judgment, encumbrance, lien (for example, comaker or equity loan) or other debt against this property that cannot be satisfied by the proceeds of this sale? ___ yes ___ no

(v) Are you aware of any reason, including a defect in title, that would prevent you from giving a warranty deed or conveying title to the property? ___ yes ___ no

(vi) Are you aware of any material defects to the property, dwelling or fixtures which are not disclosed elsewhere on this form? ___ yes ___ no

A material defect is a problem with the property or any portion of it that would have a significant adverse impact on the value of the residential real property or that involves an unreasonable risk to people on the land.

Explain any "yes" answers that you give in this section: _____

The undersigned seller represents that the information set forth in this disclosure statement is accurate and complete to the best of the seller's knowledge. The seller hereby authorizes any agent for the seller to provide this information to prospective buyers of the property and to other real estate agents. The

seller alone is responsible for the accuracy of the information contained in this statement. The seller shall cause the buyer to be notified in writing of any information supplied on this form that is rendered inaccurate by a change in the condition of the property following the completion of this form.

SELLER _____ DATE _____
SELLER _____ DATE _____
SELLER _____ DATE _____

EXECUTOR, ADMINISTRATOR, TRUSTEE

The undersigned has never occupied the property and lacks the personal knowledge necessary to complete this disclosure statement.

DATE _____

RECEIPT AND ACKNOWLEDGMENT BY BUYER

The undersigned buyer acknowledges receipt of this disclosure statement. The buyer acknowledges that this statement is not a warranty and that, unless stated otherwise in the sales contract, the buyer is purchasing this property in its present condition. It is the buyer's responsibility to satisfy himself or herself as to the condition of the property. The buyer may request that the property be inspected, at the buyer's expense and by qualified professionals, to determine the condition of the structure or its components.

BUYER _____ DATE _____
BUYER _____ DATE _____
BUYER _____ DATE _____

[Pa.B. Doc. No. 10-774. Filed for public inspection April 30, 2010, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Governor's Office of Administration

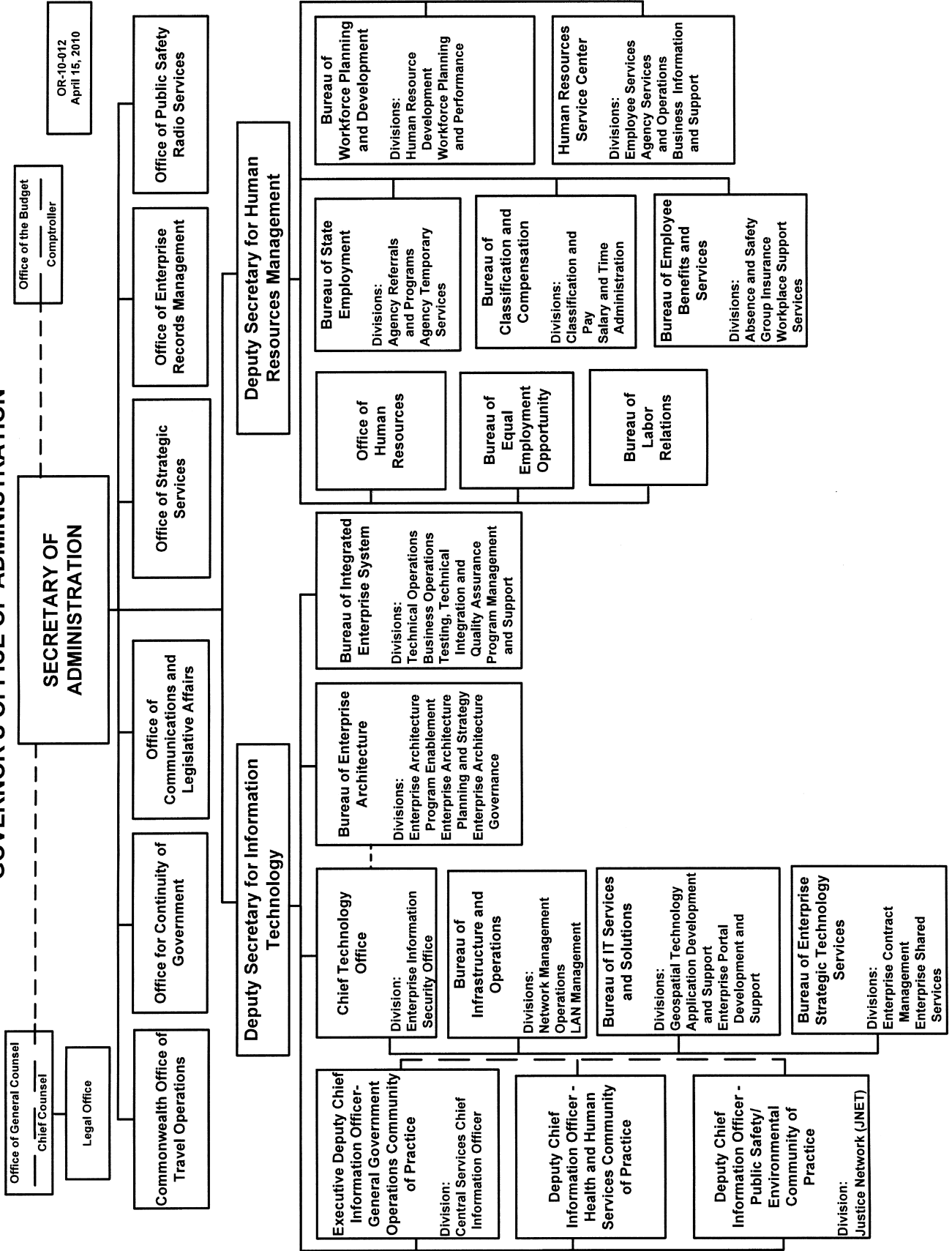
The Executive Board approved a reorganization of the Governor's Office of Administration effective April 15, 2010.

The organization chart at 40 Pa.B. 2288 (May 1, 2010) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 10-775. Filed for public inspection April 30, 2010, 9:00 a.m.]

GOVERNOR'S OFFICE OF ADMINISTRATION



Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 69]

[M-2009-2140580/57-272]

Default Service and Retail Electric Markets

Public Meeting held
January 14, 2010

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

*Proposed Policy Statement Regarding Default Service and
Retail Electric Markets; Doc. No. M-2009-2140580*

Proposed Policy Statement

By the Commission:

On October 15, 2008, Governor Edward Rendell signed House Bill 2200, Act 129, into law. Act 129 became effective on November 14, 2008. Act 129 has several goals including reducing energy consumption and demand. Act 129 also revises the default service requirements contained in Chapter 28 of the Public Utility Code. This proposed policy statement hereby opens a proceeding to consider amendments to our current policy statement regarding Default Service and Retail Electric Markets in 52 Pa. Code §§ 69.1801, 1817, as required by the enactment of Act 129 so that our policy statement shall be consistent with the Act.

Procedural History

Historically, the local electric utility company was responsible for generating or purchasing and delivering electricity to the customers' premises. However, the Electric Generation Customer Choice and Competition Act (Competition Act) of December 3, 1996 (P.L. 802, No. 138), codified at 66 Pa.C.S. §§ 2801, *et seq.*, required electric distribution companies (EDCs) to unbundle transmission, distribution and generation rates for retail customers. The Competition Act deregulated electricity generation and provided all customers in Pennsylvania the opportunity to choose their electric generation supplier (EGS). 66 Pa.C.S. § 2806(a). The EDC is responsible for delivering the electricity to those customers who choose to buy from an EGS. Additionally, the EDC is responsible for both acquiring and delivering electricity for those customers who do not shop or buy their electricity from an EGS, or whose EGS fails to provide the promised electricity.

When an EDC acquires electricity for customers not served by an EGS, the EDC is functioning as the "default service provider" (DSP). Currently, the rates charged to most Pennsylvania customers are capped. The Competition Act provided that an EDC's generation rates be capped until the EDC had completed its stranded cost recovery. Many of the larger EDCs agreed to extend rate caps as part of their electric restructuring settlements. For most of these companies, generation rate caps do not expire until December 31, 2010. Other EDCs, most notably Duquesne Light Company and several smaller EDCs had shorter stranded cost recovery periods that expired much sooner, as early as 1999 for Citizens Electric Company of Lewisburg, Inc.

Following the expiration of rate caps, the Competition Act provided that default suppliers "acquire electric energy at prevailing market prices" to serve default service

customers and that default suppliers "recover fully all reasonable costs." 66 Pa.C.S. § 2807(e)(3). There has been disagreement over what "prevailing market prices" means as applied to default service rates.

History of Default Service Regulations and Policy Statement

On February 9, 2007, the Commission issued a Proposed Policy Statement Order regarding default service at Docket No. M-00072009. On May 10, 2007, the Commission entered a Final Rulemaking Order at Docket No. L-00040169. The default service regulations became effective on September 15, 2007. The policy statement contained guidelines for DSPs in the areas of procurement, rate design, and cost-recovery. The default service regulations set forth detailed requirements for default service plans. The regulations require DSPs to acquire default supply at prevailing market prices. The regulations further require that electric generation supply be acquired by competitive bid solicitations, spot market purchases or a combination of both. 52 Pa. Code § 54.186(b)(4). Competitive bid processes are subject to monitoring by the Commission. 52 Pa. Code § 54.186(c)(3). The regulations allow DSPs to use automatic adjustment clauses for recovery of non-alternative energy default service costs. 52 Pa. Code § 54.187(f). The default service Policy Statement provides additional guidance to EDCs regarding energy procurement, bid solicitation processes, default service cost elements, rate design, rate change mitigation, rate and bill ready billing, purchase of receivables programs, customer referral programs and supplier tariff uniformity.

Act 129

Even though the retail provision of electric generation service has been subject to competition for nearly a decade, the vast majority of residential customers continue to obtain their generation supplies from their "default" supplier, that is, their regulated electric distribution utility. Under the 1996 Pennsylvania electric restructuring law, the electric distribution companies (or alternative Commission-approved default suppliers) were required to serve non-shopping customers after rate caps ended by acquiring electric energy "at prevailing market prices." Act 129 explicitly repealed the prevailing market prices standard, and declared instead that the utilities' generation purchases must be designed to ensure adequate and reliable service at the least cost to customers over time. 66 Pa.C.S. § 2807(e)(3.4).

In reviewing a utility's default service plan, the Commission must consider "the default service provider's obligation to provide adequate and reliable service to customers and that the default service provider has obtained a prudent mix of contracts to obtain least cost on a long-term, short-term and spot market basis." 66 Pa.C.S. § 2807(e)(3.7).

Another substantive change is that contracts for supply formerly were defined as being up to 3-years in length. Now, under Act 129, a long-term purchase contract is generally defined as a contract "of more than four and not more than 20 years." 66 Pa.C.S. § 2807(e)(3.2)(iii).

In summary, under Act 129, electric power shall be procured through competitive procurement processes and shall include one or more of the following: (1) auctions; (2) requests for proposals; or (3) bilateral agreements. 66 Pa.C.S. § 2807(e)(3.1). Additionally, the electric power that is procured shall include a prudent mix of: (1) spot market purchases; (2) short-term contracts; and (3) long-term purchase contracts of more than 4 and not more than 20 years. 66 Pa.C.S. § 2807(e)(3.2). Long-term con-

tracts may not constitute more than 25% of projected load absent a Commission determination that good cause exists for a higher percentage to achieve least cost procurement. 66 Pa.C.S. § 2807(e)(3.2)(iii).

The “prudent mix” of contracts shall be designed to ensure: (1) adequate and reliable service; (2) the least cost to customers over time; (3) compliance with the procurement methodologies described previously, that is, through auctions, requests for proposals; or bilateral agreements. 66 Pa.C.S. § 2807(e)(3.4) and (e)(3.1). “Bilateral contract” is a new term defined under 66 Pa.C.S. § 2803 (relating to definitions).

In terms of process, the DSP must file a plan for competitive procurement with the Commission and obtain Commission approval of the plan considering certain factors and standards under 66 Pa.C.S. § 2807(e) before the competitive process is implemented. The Commission shall hold hearings as necessary on the proposed plan. If the Commission fails to issue a final order on the plan within 9 months of the date that the plan is filed, the plan is deemed to be approved and the default service provider may implement the plan as filed. 66 Pa.C.S. § 2807(e)(3.6).

When evaluating a default service plan, the Commission must consider the DSP’s obligation to provide adequate and reliable service to the customers and that the DSP has obtained a prudent mix of contracts to obtain the least cost on a long-term, short-term and spot market basis. The Commission is required to make specific findings that include: (1) the DSP’s plan includes prudent steps necessary to negotiate favorable generation supply contracts; (2) the DSP’s plan includes prudent steps necessary to obtain least cost generation contracts on a long-term, short-term and spot market basis; and (3) neither the DSP nor its affiliated interest has withheld generation supply from the market as a matter of Federal law. 66 Pa.C.S. § 2807(e)(3.7).

Further, under Act 129, DSPs have a right to recover default service costs pursuant to a reconcilable automatic adjustment clause and residential and small commercial and industrial customers’ rates cannot change more frequently than quarterly. 66 Pa.C.S. § 2807(e)(3.9). Default service plans approved by the Commission prior to the effective date of Act 129 shall remain in effect through the approved term. However, the DSP may propose amendments to an approved plan. 66 Pa.C.S. § 2807(e)(6).

Discussion

Consistent with the language of Act 129, the Commission proposes to make the following revisions to our policy statement regarding default service and retail electric markets, and invites the public to comment within 30 days of publication of this proposed policy statement in the *Pennsylvania Bulletin*.

§ 69.1803. Definitions.

We propose adding definitions for “bilateral contract” and “default service provider” such that the definitions mirror 66 Pa.C.S. § 2803.

§ 69.1805. Electric generation supply procurement.

We propose amending this section to define long-term contracts as being neither less than 4 nor greater than 20 years in length. The section already states a prudent mix of arrangements should be included in a proposed procurement plan.

§ 69.1806. Alternative energy portfolio standard compliance.

We propose updating this section to reflect that the DSP should procure electric generation supply for default service customers in compliance with Act 129. We invite comment on this section.

Although we see no need to amend §§ 69.1809—69.1817 of the policy statement, we invite comments on those sections as well.

Interested parties will be given 30 days from the date of publication of the proposed policy statement in the *Pennsylvania Bulletin* for the submission of an original and 15 copies of comments. The contact person is Elizabeth Barnes, Law Bureau, (717) 772-5408 (legal). A copy of all comments should be electronically mailed to Elizabeth Barnes at ebarnes@state.pa.us.

Conclusion

The Commission welcomes comments on all aspects of this proposed policy statement. It must be observed that this policy statement is closely related to the final outcome of the default service regulations rulemaking at Docket No. L-2009-2095604. A final policy statement will be promulgated for publication in the *Pennsylvania Bulletin* before the Commission issues its Final Rulemaking Order. Should the Independent Regulatory Review Commission or other entity require changes to the final-form version of the rulemaking, this policy statement may need to be revised for consistency; *Therefore,*

It Is Ordered That:

1. The proposed amendments to 52 Pa. Code §§ 69.1803, 69.1805 and 69.1806, as set forth in Annex A, are issued for comment.

2. The Secretary shall submit this order and Annex A to the Governor’s Budget Office for review of fiscal impact.

3. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4. Interested parties shall have 30 days from the date of publication in the *Pennsylvania Bulletin* of the proposed policy statement and Annex A to file an original and 15 written comments to the Pennsylvania Public Utility Commission, Attention: Secretary Rosemary Chiavetta, P. O. Box 3265, Harrisburg, PA 17105-3265.

5. A copy of the comments should be electronically mailed to Elizabeth Barnes, Assistant Counsel at ebarnes@state.pa.us, and these comments in turn will be placed on the Commission’s web site for public viewing at www.puc.state.pa.us. Attachments may not exceed three megabytes.

6. Comments should, where appropriate, address the issues identified in this order and should include, where applicable, a numerical reference to the attached Annex A which the comments address, proposed language for revision, and a clear explanation for the recommendation.

7. A copy of this order and Annex A be filed at Docket No. M-2140580 and Docket No. L-2009-2095604 and be served upon all electric distribution companies and all electric generation suppliers operating in the Commonwealth, the Office of Consumer Advocate, the Office of Small Business Advocate, the AFL-CIO Utility Caucus, the Pennsylvania Utility Contractors Association and the Energy Association of Pennsylvania.

8. The contact person is Elizabeth Barnes, Law Bureau, (717) 772-5408, ebarnes@state.pa.us.

By the Commission

ROSEMARY CHIAVETTA, Secretary

Fiscal Note: 57-272. No fiscal impact; (8) recommends adoption.

(Editor's Note: For a proposed rulemaking relating to this proposed statement of policy, see 40 Pa.B. 2267 (May 1, 2010).)

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES

DEFAULT SERVICE AND RETAIL ELECTRIC MARKET—STATEMENT OF POLICY

§ 69.1803. Definitions.

The following words and terms, when used in this section and §§ 69.1801, 69.1802 and 69.1804—69.1817, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Bilateral contract—The term has the same meaning as defined in 66 Pa.C.S. § 2803 (relating to definitions).

* * * * *

DSP—Default service provider—The [incumbent EDC within a certificated service territory or a Commission approved alternative supplier of electric generation service] term has the same meaning as defined in 66 Pa.C.S. § 2803 (relating to definitions).

* * * * *

§ 69.1805. Electric generation supply procurement.

A proposed procurement plan should balance the goals of allowing the development of a competitive retail supply

market and also including a prudent mix of arrangements to minimize the risk of over-reliance on any energy products at a particular point in time. In developing a proposed procurement plan, a DSP should consider including a prudent mix of supply-side and demand-side resources such as long-term, short-term, staggered-term and spot market purchases to minimize the risk of contracting for supply at times of peak prices. Short-term contracts are contracts up to and including 3 years in length. Long-term contracts are contracts neither less than 4 years nor greater than 20 years in length. Long-term contracts should only be used when necessary and required for DSP compliance with alternative energy requirements, and should be restricted to covering a relatively small portion of the default service load. An over-reliance on long-term contracts would mute demand response, create the potential for future default service customers to bear future above market costs and limit operational flexibility for DSPs to manage their default service supply. The plan should be tailored to the following customer groupings, but DSPs may propose alternative divisions of customers by registered peak load to preserve existing customer classes.

* * * * *

§ 69.1806. Alternative energy portfolio standard compliance.

In procuring electric generation supply for default service customers, the DSP shall comply with the Alternative Energy Portfolio Standards Act (73 P. S. §§ 1648.1—1648.8) and the amendments provided under the act of October 15, 2008 (P. L. 1592, No. 129) (Act 129). [The Commission's default service regulations neither prohibit nor mandate the use of long-term contracts to satisfy the use of long-term contracts to satisfy the alternative energy portfolio standards obligation. In satisfying their obligation, a DSP's procurement strategy should reflect the incurrence of reasonable costs.]

* * * * *

[Pa.B. Doc. No. 10-776. Filed for public inspection April 30, 2010, 9:00 a.m.]

NOTICES

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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

PA0062201, Sewage, SIC Code 4952, **Schuylkill County Municipal Authority**, 221 South Centre Street, Pottsville, PA 17901-3506. Facility Name: Schuylkill County Municipal Authority DP & TP & Cs. This existing facility is located in Gordon Borough, **Schuylkill County**.

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

The receiving stream(s), Mahanoy Creek, is located in State Water Plan watershed 6-B and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.60 MGD.

Parameters	Mass (lb/day)		Minimum	Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Weekly Average		Average Monthly	Weekly Average	
Flow (MGD)	Report	Report Daily Maximum				
pH (S.U.)			6.0			9.0
Total Residual Chlorine				1.0		2.0
CBOD ₅	125	200		25	40	50
Total Suspended Solids	150	225		30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30				200		
Oct 1 - Apr 30				Geometric Mean 2,000		
Total Phosphorus	Report	Report		Geometric Mean Report		

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

Parameters	Mass (lb/day)		Minimum	Concentration (mg/l)	
	Monthly	Annual		Monthly Average	Maximum
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	10,959			
Net Total Phosphorus	Report	1,461			

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

- Chesapeake Bay

This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department of Environmental Protection's (Department) Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document #392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2012. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMRs—Annual Nutrient Summary by September 30, 2013. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2012.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMRs—Annual Nutrient Summary by November 28, 2013.

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

The EPA waiver is not in effect.

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0045969 (SWI)	Sunoco Partners Marketing & Terminals, LP 1314 Point Township Road Northumberland, PA 17857	Point Township Northumberland County	Unnamed Tributary to Susquehanna River	Y
PA0228761 (Sewage) Non-Public	Bakercrest Home for the Elderly 76 Baker Crest Lane Millerton, PA 16936	Tioga County Rutland Township	UNT to Bear Creek SWP 4A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0035521	Department of Transportation Bureau of Design Rome Township Satellite Maintenance Facility P. O. Box 3060 Harrisburg, PA 17105	Rome Township Crawford County	Unnamed tributary to Oil Creek 16-E	Y
PA0035548	Department of Transportation Bureau of Design Department of Transportation Rest Area 15 P. O. Box 3060 Harrisburg, PA 17105	Plain Grove Township Lawrence County	Unnamed tributary to Jamison Run 20-C	Y
PA0210161	PA American Water Company 207 Oneida Valley Road Butler, PA 16001	Oakland Township Butler County	Connoquenessing and Thorn Creeks 20-C	Y
PA0104299	Lutherlyn P. O. Box 355 Prospect, PA 16052-0355	Connoquenessing Township Butler County	Semiconon Run 20-C	Y

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

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

PA0044474, Sewage, SIC Code 4952, 8051, **Brinton Manor, Inc.**, 549 Baltimore Pike, Glen Mills, PA 19342-1020. Facility Name: Brinton Manor STP. This existing facility is located in Concord Township, **Delaware County**.

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

The receiving stream(s), West Branch Chester Creek, is located in State Water Plan watershed 3-G and is classified for trout stocking and migratory fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.013 MGD:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report			
pH (S.U.)			6.0		9.0
Dissolved Oxygen			4.0		
Total Residual Chlorine				0.5	1.2
CBOD ₅				25	50
Total Suspended Solids				30	60
Fecal Coliform (CFU/100 ml)				200	1,000
Ammonia-Nitrogen					
May 1 - Oct 31				10	20
Nov 01 - Apr 30				20	40
Total Phosphorus (Interim)				Report	Report
Total Phosphorus (Final)					
May 01 - Oct 31				1.0	2.0
Nov 01 - Apr 30				2.0	4.0

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

1. Operator Notification.
2. Abandon STP When Municipal Sewers Available.
3. Remedial Measures if Unsatisfactory Effluent.
4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Change of Ownership.
7. TRC Requirement.
8. Proper Sludge Disposal.

9. 2/Month Monitoring.
10. Laboratory Certification.
11. Fecal Coliform Reporting.

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

The EPA waiver is in effect.

PA0054950, Industrial Waste, SIC Code 2013, **Pilgrims Pride, Corp.**, P. O. Box 7275, Broadway, VA 22815-7275. Facility Name: Pilgrims Pride Franconia Plant. This existing facility is located in Franconia Township, **Montgomery County**.

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

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

The proposed effluent limits for Outfall 001 are based on a design flow processed wastewater of 0.3 MGD:

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report				
pH (S.U.)			6.0			9.0
Dissolved Oxygen			6.0	Report		
Total Residual Chlorine				0.5		1.2
Color (Pt-Co Units)						100
Temperature (° F)						110
CBOD ₅	25	50		10	20	25
Total Suspended Solids	25	50		10	20	25
Total Dissolved Solids				4,700	9,400	11,750
Osmotic Pressure (mOs/kg)						100
Oil and Grease				8.0	14	20
Fecal Coliform (CFU/100 ml)				200		
				Geometric Mean		
Total Nitrogen	50.0	100.0		20.0	40.0	50.0
Ammonia-Nitrogen						
May 1 - Oct 31	5.0	10.0		2.0	4.0	5.0
Nov 1 - Apr 30	10.0	20.0		4.0	8.0	10.0
Total Phosphorus	2.5	5.0		1.0	2.0	2.5
Total Copper				Report	Report	Report
Total Mercury				Report	Report	Report
Total Zinc				Report	Report	Report
Total Phenolics				0.005	0.01	0.012
Hardness, Total				Report		
Hardness, Total						
Downstream Monitoring						
Jul 1 - Sep 30				Report		

The proposed effluent limits for Outfall 002 based on an average stormwater runoffs:

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH (S.U.)					Report	
CBOD ₅					Report	
Chemical Oxygen Demand					Report	
Total Suspended Solids					Report	
Oil and Grease					Report	
Fecal Coliform (CFU/100 ml)					Report	
Ammonia-Nitrogen					Report	
Total Kjeldahl Nitrogen					Report	
Total Phosphorus					Report	
Dissolved Iron					Report	

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

1. Effective Disinfection.
2. Remedial Measures.
3. Test Methods.
4. Change of Ownership.
5. Sludge Disposal.
6. TMDL/WLA Analysis.
7. Twice a Month Monitoring.
8. Storm Water Discharge.
9. Operations and Maintenance.
10. Laboratories Certification.
11. Groundwater Monitoring Well No. 48.
12. Groundwater Monitoring Well on Memory Lane.
13. Stream Hardness.

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

The EPA waiver is not in effect.

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

PA0070254-A1, Sewage, SIC Code 4952, **Lynn Township Sewer Authority**, P. O. Box 208, New Tripoli, PA 18066-0208. Facility Name: Lynn Township Sewer Authority Wastewater Treatment Facility. This existing facility is located in Lynn Township, **Lehigh County**.

Description of Existing Activity: The application is for an amendment of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Ontelaunee Creek, is located in State Water Plan watershed 03B and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.16 MGD.

The following effluent limits will be in effect from Permit Effective Date until November 30, 2013:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly Report</i>	<i>Daily Maximum Report</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report				
pH (S.U.)			6.0			9.0
Dissolved Oxygen			5.0			
Total Residual Chlorine				0.1		0.3
CBOD ₅						
May 1 - Oct 31				15	25	30
Nov 1 - Apr 30				25	40	50
Total Suspended Solids				30.0	45.0	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30				200		
				Geometric Mean		
Oct 1 - Apr 30				2,000		
				Geometric Mean		
Ammonia-Nitrogen						
May 1 - Oct 31 (Interim)				4		8
Nov 1 - Apr 30 (Interim)				12		24

The following effluent limits will be in effect from Permit Effective Date until November 30, 2010:

<i>Parameters</i>	<i>Mass (lb)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>	
	<i>Monthly Report</i>	<i>Annual Report</i>		<i>Average Monthly Report</i>	<i>Maximum Report</i>
Total Suspended Solids	Report	Report		Report	
Total Phosphorus	Report	Report		Report	

Parameters	Mass (lb)		Concentration (mg/l)		
	Monthly Report	Annual Report	Minimum	Average Monthly Report	Maximum
Total Suspended Solids	Report	7,306		Report	
Total Phosphorus	Report	244		Report	

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

- Lake Ontelaunee Total Suspended Solids and Total Phosphorus TMDL requirements.

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

The EPA waiver is not in effect.

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

Application No. PA 0088846, Concentrated Animal Feeding Operation (CAFO), Brent Hershey, 138 Airport Road, Marietta, PA 17547.

Brent Hershey has submitted an application to renew the existing Individual NPDES permit for an existing CAFO known as the Aspen Perry Farm, located in Oliver Township, **Perry County**.

The CAFO is situated near an Unnamed tributary to Buffalo Creek, which is classified as a high-quality, cold water fishery. The CAFO includes 4 animal housing units designed to maintain an animal population of approximately 1,725 animal equivalent units consisting of 4,800 sows and 6,000 piglets. Manure is stored in a high-density polyethylene-lined earthen impoundment with a total capacity of approximately 6.9 million gallons. Manure produced at the operation is applied on-site or exported to local farmers in accordance with an approved Nutrient Management Plan. 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 reissue the NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit. The permit application and draft permit are on file at the Southcentral Regional Office of the Department.

You may make an appointment to review the Department’s files by calling the File Review Coordinator at 717-705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previously listed address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department’s final determination regarding the application. Following the 30-day comment period, the Watershed Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time the determination may be appealed to the Environmental Hearing Board.

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

Application No. PA 0026441, Sewage, Lemoyne Borough, Three Lowther Street, Lemoyne, PA 17043. This facility is located in Lemoyne Borough, **Cumberland County**.

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

The receiving stream, Susquehanna River, is in Watershed 7-E, and classified for warm water fishes, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Wrightsville Water Supply Company is located on the Susquehanna River, approximately 27 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 2.088 MGD are:

Parameter	Average	Average	Instantaneous
	Monthly (mg/l)	Weekly (mg/l)	Maximum (mg/l)
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Total Residual Chlorine	0.5		1.6
Total Phosphorus	2.0		4.0
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform		200/100 ml as a Geometric Average	
(5-1 to 9-30)		2,000/100 ml as a Geometric Average	
(10-1 to 4-30)			

NOTICES

Chesapeake Bay Requirements

	<i>Concentration (mg/L)</i>		<i>Mass (lbs)</i>	
	<i>Monthly Average</i>	<i>Monthly</i>	<i>Monthly</i>	<i>Annual</i>
Ammonia-N	Report	Report	Report	Report
Kjeldahl-N	Report	Report	Report	XXX
Nitrate-Nitrite as N	Report	Report	Report	XXX
Total Nitrogen	Report	Report	Report	Report
Total Phosphorus	Report	Report	Report	Report
Net Total Nitrogen	XXX	Report	Report	46,270*
Net Total Phosphorus	XXX	Report	Report	5,784*

* The permit contains conditions which authorize the permittee to apply nutrient reduction credits, to meet the Net Total Nitrogen and Net Total Phosphorus effluent limits, under the Department of Environmental Protection's (Department) Trading of Nutrient and Sediment Reduction Credits Policy and Guidelines (392-0900-001, December 30, 2006). The conditions include the requirement to report application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

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

The EPA waiver is not in effect.

PA0083011, Sewage, SIC Code 4952, **Newberry Township Municipal Authority**, 1915 Old Trail Road, Etters, PA 17319-9130. Facility Name: Newberry Township Goldsboro STP. This existing facility is located in Newberry Township, **York County**.

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

The receiving stream, Susquehanna River, is located in State Water Plan watershed 7-E and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.3 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report				
pH			6.0			9.0
Dissolved Oxygen			5.0			
CBOD ₅	271	434 Weekly Average		25	40	50
BOD ₅						
Raw Sewage Influent	Report	Report		Report		
Total Suspended Solids						
Raw Sewage Influent	Report	Report		Report		
Total Suspended Solids	325	488 Weekly Average		30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30				200 Geometric Mean		
Oct 1 - Apr 30				2,000 Geometric Mean		
Ammonia-Nitrogen				Report		
Total Phosphorus	22			2.0		4.0

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

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

Parameters	Mass (lb/day)		Concentration (mg/l)		
	Monthly Report	Annual Report	Minimum	Monthly Average	Maximum
Net Total Nitrogen (Final)	Report	23,774			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	3,166			

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

- Requirements Applicable to Stormwater Outfalls.
- Solids Management.
- Receipt of Residual Waste.

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

The EPA waiver is not in effect.

Application No. PA 0261262, Sewage, **North Londonderry Township Authority**, 655 East Ridge Road, Palmyra, PA 17078. This facility is located in South Annville Township, **Lebanon County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, Killinger Creek, is in Watershed 7-D, and classified for trout stocking fishery, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Pennsylvania American Water Company is located on the Swatara Creek, approximately 13 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 1.5 MGD are:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅			
(5-1 to 10-31)	10	15	20
(11-1 to 4-30)	20	30	40
Total Suspended Solids	10	15	20
NH ₃ -N			
(5-1 to 10-31)	2.5		5
(11-1 to 4-30)	7.5		15
Total Phosphorus	2.0		4.0
Total Copper	Report		Report
Total Zinc	Report		Report
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	

Chesapeake Bay Requirements

	Concentration (mg/L)		Mass (lbs)
	Monthly Average	Monthly	Annual
Ammonia-N	Report	Report	Report
Kjeldahl-N	Report	Report	XXX
Nitrate-Nitrite as N	Report	Report	XXX
Total Nitrogen	Report	Report	Report
Total Phosphorus	Report	Report	Report
Net Total Nitrogen	XXX	Report	25,936*
Net Total Phosphorus	XXX	Report	3,458*

* The permit contains conditions which authorize the permittee to apply nutrient reduction credits, to meet the Net Total Nitrogen and Net Total Phosphorus effluent limits, under the Department of Environmental Protection’s (Department) Trading of Nutrient and Sediment Reduction Credits Policy and Guidelines (392-0900-001, December 30, 2006). The conditions include the requirement to report application of these credits in Supplemental Discharge Monitoring Reports submitted to the Department.

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

The EPA waiver is not in effect.

Application No. PA 0026280, Sewage, **Lewistown Borough**, Two East Third Street, Lewistown, PA 17044-1799. This facility is located in Lewistown Borough, **Mifflin County**.

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

The receiving stream, Juniata River, is in Watershed 12-A, and classified for warm water fishery, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Newport Borough is located on the Juniata River, approximately 30 miles downstream. The discharge is not expected to affect the water supply.

The proposed permit amendment revises the milestone dates in the schedule for complying with the Chesapeake Bay nutrient cap loads.

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

The EPA waiver is not in effect.

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

PA0252557, Industrial Waste, SIC 5541, **Coen Oil Company**, P. O. Box 34, 1100 West Chestnut Street, Washington, PA 15301. This application is for renewal of an NPDES permit to discharge petroleum product-contaminated groundwater from Exit 3 Amoco in Buffalo Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, unnamed tributary to Buffalo Creek, classified as a high quality warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation.

Outfall 001: existing discharge, design flow of 0.001 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (MGD)	Monitor and Report				
Total Suspended Solids			10		25
CBOD ₅			10		25
Total Residual Chlorine			Not Detectable		
Oil and Grease			Not Detectable		
Iron, Dissolved			Not Detectable		
Lead			Not Detectable		
Benzene			Not Detectable		
Toluene			Not Detectable		
Ethylbenzene			Not Detectable		
Xylenes, Total			Not Detectable		
Total BTEX			Not Detectable		
MTBE			Not Detectable		
pH	not less than 6.0 nor greater than 9.0 S.U.				

Other Conditions: Special conditions concerning compliance with not detectable effluent limitations, residual waste disposal, oil-bearing wastewaters, and prohibitions on discharges of floating materials, oil, grease, scum and substance which produce tastes, color, odors, turbidity or settle to form deposits.

The EPA waiver is in effect.

PA0095362, Sewage, **Laurelville Mennonite Church Center Association**, 941 Laurelville Lane, Mt. Pleasant, PA 15666-8908. This application is for renewal of an NPDES permit to discharge treated sewage from Laurelville Mennonite Church Center Sewage Treatment Plant in Mt. Pleasant Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Unnamed Tributary of Jacobs Run, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority-McKeesport.

Outfall 001: existing discharge, design flow of 0.012 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	10			20
Suspended Solids	30			60
Ammonia Nitrogen				
May 1 to Oct 31	3.0			6.0
Nov 1 to Apr 30	9.0			18.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a Geometric Mean			
Oct 1 to Apr 30	2,000/100 ml as a Geometric Mean			

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA0037893, Sewage, SIC Code 4952, **Borough of East Brady**, 502 Ferry Street, East Brady, PA 16028-1238. Facility Name: East Brady STP. This existing facility is located in East Brady Borough, **Clarion County**.

Description of Existing Activity: The application is for an amendment of an NPDES permit for an increased discharge of treated sewage.

The receiving stream(s), the Allegheny River, is located in State Water Plan watershed 17-C and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.15 MGD (Interim) and 0.185 MGD (Final).

Parameters	Mass (lb/day)		Minimum	Concentration (mg/l)		
	Average Monthly	Weekly Average		Average Monthly	Weekly Average	Instantaneous Maximum
Flow (MGD)	Report	Report				
pH (S.U.)			6.0			9.0
Total Residual Chlorine (Interim)				0.5		0.8
CBOD ₅ (Interim)	31	50		25	40	50
CBOD ₅ (Final)	38	61		25	40	50
Total Suspended Solids (Interim)	38	56		30	45	60
Total Suspended Solids (Final)	46	69		30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30				200		
Oct 1 - Apr 30				Geometric Mean		
				2,000		
				Geometric Mean		

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA waiver is in effect.

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

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

WQM Permit No. WQG02511007, Sewerage, **Philadelphia Water Department**, The Aramark Tower, 1101 Market Street, Philadelphia, PA 19107. This proposed facility is located in the City of Philadelphia, **Philadelphia County**.

Description of Action/Activity: Construction of a 5 residential tower with 951 units, building service facility, recreation center, 3 retail facilities and a parking structure to service the units.

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

WQM Permit No. 2110201, CAFO, Mains Dairy, 473 Mount Rock Road, Newville, PA 17241. This proposed facility is located in West Pennsboro Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction/Operation of a new HDPE-LINED manure storage facility. Currently manure from the dairy operation is transferred to an existing earthen clay-lined manure storage. The dairy is proposing to have a two stage manure storage facility by construction a 415' by 180' by 15' deep HDPE-lined manure storage beside the existing manure storage. The existing manure storage (Cell 1) will be the first stage from which manure will overflow into the proposed HDPE-lined manure storage (Cell 2) which is the second stage where manure will be stored.

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

WQM Permit No. 0208202-A1, Industrial Waste, **Allegheny County Airport Authority, Pittsburgh International Airport, Landside Terminal**, 4th Floor Mezzanine, P. O. Box 12370, Pittsburgh, PA 15231-0370. This existing facility is located in Moon and Findlay Townships, **Allegheny County**.

Description of Proposed Action/Activity: Application for permit amendment.

WQM Permit No. 3281403-T2 A1, Sewerage, **RRI Energy Northeast Management Company**, 121 Champion Way, Suite 200, Canonsburg, PA 15317. This proposed facility is located in West Wheatfield Township, **Indiana County**.

Description of Proposed Action/Activity: Application for permit amendment.

WQM Permit No. 3989-A1, Sewerage, **Department of Public Welfare**, 1401 North 7th Street, P. O. Box 2675, Harrisburg, PA 17105-4064. This existing facility is located in Derry Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for permit amendment.

WQM Permit No. 5610402, Sewerage, **Somerset Township Municipal Authority**, P. O. Box 247, Somerset, PA 15501. This proposed facility is located in Somerset Township, **Somerset County**.

Description of Proposed Action/Activity: Application for the construction and operation of a pump station.

WQM Permit No. 0410402, Sewerage, **Municipal Water Authority of Aliquippa**, 160 Hopewell Avenue, Aliquippa, PA 15001. This proposed facility is located in Aliquippa Borough, **Beaver County**.

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

WQM Permit No. 0210403, Sewerage, **Borough of Sewickley**, 601 Thorn Street, Sewickley, PA 15143. This proposed facility is located in Sewickley Borough, **Allegheny County**.

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

WQM Permit No. 6310403, Sewerage, **Canonsburg-Houston Joint Authority**, 68 East Pike Street, Canonsburg, PA 15317. This proposed facility is located in Chartiers Township/Houston Borough, **Washington County**.

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

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 151004	Uwchlan Township 715 North Ship Road Exton, PA 19341	Chester	Uwchlan and West Whiteland Townships	Pine Creek HQ West Valley Creek CWF-MF
PAI01 151005	Honey Brook Properties, LLC 69 Risbon Road Honey Brook, PA 19344	Chester	Honey Brook Township	West Branch Brandywine Creek HQ-TSF

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023910004	Greentree Nurseries Attn: Alexander and Karen Tamerler 1628 Barkwood Drive Orefield, PA 18069	Lehigh	Lower Milford Township	Tributary to Unami Creek HQ-TSF, MF

Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, 570-629-3060.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024510004	Pennsylvania CVS Pharmacy, LLC c/o Summit Realty Advisors, LLC 8 Devonshire Court Blue Bell, PA 19422	Monroe	Coolbaugh Township	Indian Run EV, MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033610002	Nancy Evans PPL Holtwood 2 North 9th Street Allentown, PA 18101-1179	Lancaster	Martic Township	Susquehanna River WWF

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

Washington County Conservation District, 401 602 Courthouse Square, Washington, PA 15301, (724-228-6774).

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056305001-R	Majestic Hills, LLC 3625 Washington Pike Bridgeville, PA 15017	Washington	North Strabane Township	UNT to Little Chartiers Creek HQ-WWF
PAI056310003	Richard Doncal J. R. Properties 6000 Waterdam Plaza McMurray, PA 15317	Washington	North Strabane Township	UNT to Little Chartiers Creek HQ-WWF

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

Lawrence County Conservation District, Lawrence County Government Center, 430 Court Street, New Castle, PA 16101, telephone 724-652-4512.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI063710001	Department of Transportation, Engineering District 11-0 Cheryl Moon-Sirianni 45 Thoms Run Road Bridgeville, PA 15017	Lawrence	Mahoning Township	UNTs Mahoning River and Mahoning River WWF

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

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

STATE CONSERVATION COMMISSION

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

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

Based upon preliminary reviews, the State Conservation Commission (SCC), or County Conservation Districts (CCD) working under a delegation agreement with the SCC, have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at www.pacd.org/districts/directory.htm 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>
Jim Charles 3241 Blue Rock Road Lancaster, PA 17603	Lancaster	104.4	3.44	Broiler/Swine	NA	Renewal

PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

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

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

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 0910512, Public Water Supply.

Applicant	T.E.C. Corporation
Township	Tinicum
County	Bucks

Responsible Official	Celeste Dashiell P. O. Box 447 Point Pleasant, PA 18950
Type of Facility	PWS
Consulting Engineer	Boucher & James, Inc. 1456 Ferry Road Suite 500 Doylestown, PA 18901
Application Received Date	March 29, 2010
Description of Action	New community water system utilizing an existing well to supply potable water to a personal care Boarding Home and an existing two-bedroom residence.

Application No. 0910511, Public Water Supply.

Applicant	George E. Michael & Co., Inc.
Borough	New Hope
County	Bucks
Responsible Official	Brad Michael P. O. Box 59 New Hope, PA 18938
Type of Facility	PWS
Consulting Engineer	Ebert Engineering, Inc. 4092 Skippack Pike P. O. Box 540 Skippack, PA 19474
Application Received Date	March 25, 2010
Description of Action	Installation of pH adjustment and corrosion control treatment at Union Square.

Application No. 1510507, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc.
Township	East Caln
County	Chester
Responsible Official	Ed Fortner, Jr. 762 West Lancaster Avenue Bryn Mawr, PA 19010
Type of Facility	PWS
Consulting Engineer	C.E.T. Engineering 1240 North Mountain Road Harrisburg, PA 17112

Application Received Date March 25, 2010
 Description of Action Replace the existing gas chlorination system with an on-site generated sodium hypochlorite system for disinfection at the Bell Tavern Well Station.

Application No. 0910506, Public Water Supply.

Applicant **Toll Brothers, Inc.**
 Township Buckingham
 County **Bucks**
 Responsible Official David Anderson
 250 Gilbraltar Road
 Horsham, PA 19044
 Type of Facility PWS
 Consulting Engineer Gilmore & Associates, Inc.
 65 East Butler Avenue
 Suite 100
 New Britain, PA 18901

Application Received Date March 1, 2010
 Description of Action The construction of a water supply system consisting of two wells, disinfection, storage, pump booster's and distribution to serve the propped Mill Creek Ridge residential Development.

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

Permit No. 3610507, Public Water Supply.

Applicant **Elizabethtown Area School District**
 Municipality Mount Joy Township
 County **Lancaster**
 Responsible Official Ronald M. Nobile
 Physical Plant Director
 600 East High Street
 Elizabethtown, PA 17022
 Type of Facility Public Water Supply
 Consulting Engineer Clayton E. Bubeck, P. E.
 Rettew Associates, Inc.
 3020 Columbia Avenue
 Lancaster, PA 17603

Application Received: 4/1/2010
 Description of Action Installation of lead and copper corrosion control, sodium hypochlorite disinfection and 4-Log demonstration.

MINOR AMENDMENT

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

Application No. 3510502MA.

Applicant **Kay's Italian Restaurant**
 Township or Borough Daleville Borough
Lackawanna County

Responsible Official Walter Woehrlé
 281 Aberdeen Road
 Moscow, PA 18444
 570-842-6226

Type of Facility Community Water System

Consulting Engineer James P. Palumbo, P. E.
 Quad Three Group, Inc.
 72 Glenmaura National Boulevard
 Moosic, PA 18507
 570-342-5200

Application Received Date March 31, 2010

Description of Action Application to modify PWS Permit No. 3508501, issued May 21, 2008, to allow for utilization of a substitute granular activated carbon treatment unit for removal of MTBE at Kay's Italian Restaurant.

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

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

WA-798, Water Allocation, North Penn Water Authority, 300 Forty Foot Road, P. O. Box 1659, Lansdale, PA 19446. Chalfont Borough, **Bucks County**. This application is for North Penn Water Authority permit renewal for Forest Park WTP.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any

contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

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

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

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Rodney Gilbert Residence, 1542 Strauss Valley Drive, Mahoning Township, **Carbon County**. Christopher Green and Amanda Safford, AquAeTer, Inc., 215 Jamestown Park, Suite 100, Brentwood, TN 37027 have submitted a Notice of Intent to Remediate (on behalf of their client, Westfield Insurance, P. O. Box 5001, Westfield Center, OH 44251), concerning the remediation of soil and groundwater found to have been impacted by No. 2 fuel oil as a result of a spill from an aboveground storage tank. The applicant proposes to remediate the site to meet the Residential Statewide Health Standard. The intended future use of the property will remain residential. A Summary of the Notice of Intent to Remediate was published in *The Times News* on March 9, 2010.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

XTL Transport, Route 15N Accident. Kelly Township, **Union County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of XTL Transport, 2350 Henry Ford Street, Vaudreuil-Dorion, Quebec, Canada J7V9H5 has submitted a Notice of Intent to Remediate soil contaminated with diesel fuel. The applicant proposes to remediate the site to meet the Statewide Health Standard. The site will remain a private driveway off US Route 15N.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application(s) Received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and 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. 100403. Seneca Landfill, Inc., P. O. Box 1080, Mars, PA 16046, Jackson and Lancaster Townships, **Butler County**. This is a Demonstration Facility Application for an alternative cover system at Seneca Landfill, Inc. The application was received March 29, 2010, and found to be administratively complete by the Northwest Regional Office on April 15, 2010.

Comments concerning the application should be directed to Todd Carlson, Program Manager, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335. Persons interested in obtaining more information about the general permit application may contact the Northwest Regional Office at (814) 332-6848. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

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.

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

46-0147C: Chemalloy Co., Inc. (996 Railroad Avenue, Bryn Mawr, PA 19010) for authorization to process chromium-containing alloys in the Plant 2 and 2A buildings of their existing facility in Plymouth Township, **Montgomery County**. The proposed chromium-containing material will be in addition to the manganese only materials currently being processed in this plant. This is a natural minor facility.

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

48-329-009: PPL Renewable Energy, LLC (2 North Ninth Street, Allentown, PA 18101) for installation of three (3) new IC engines at their site in Glendon Borough, **Northampton County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: David Aldenderfer, Program Manager—Telephone: 570-327-3637.

59-00004F: Ward Manufacturing, LLC (P. O. Box 9, 117 Gulick Street, Blossburg, PA 16912) to construct a core machine and a tumblast machine in Blossburg Borough, **Tioga County**.

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

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

46-0147C: Chemalloy Co., Inc. (996 Railroad Avenue, Bryn Mawr, PA 19010) for authorization to process chromium-containing alloys in the Plant 2 and 2A buildings of their existing facility in Plymouth Township, **Montgomery County**. The proposed chromium-containing material will be in addition to the manganese

only materials currently being processed in this plant. The pollutant of concern from the proposed operations is particulate matter (PM). All sources of PM emissions are controlled by wet scrubbers on existing pieces of equipment. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

46-0262C: Penn Color, Inc. (2755 Bergey Road, Hatfield, PA 19440) for installation of a Pre-mix Dispenser (PMDD4) in the Pigment Dispersion Manufacturing Building II (Wet Building II) at the Penn Color facility in Hatfield Township, **Montgomery County**. The production plant manufacturers pigment dispersions and color concentrates for commercial use. Penn Color currently operates various equipment under Plan Approval No. 46-0262A. Facility Volatile Organic Compounds (VOC) and Particulate Matter (PM) emissions are below major facility thresholds for the Philadelphia Metropolitan Area; the facility is classified as a Synthetic Minor Facility. Emissions from the new dispenser (Source ID 123) will be controlled by the existing regenerative thermal oxidizer (Source ID C03) and an existing dust collector (Source ID C211) currently operating under Plan Approval No. 46-0262A. Plan Approval No. 46-0262C will include monitoring, testing, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: David Aldenderfer, Program Manager—Telephone: 570-327-3637.

18-00011I: Croda, Inc. (8 Croda Way, Mill Hall, PA 17751) for construction and operation of a new railcar unloading system associated with the ethylene oxide (EO) and propylene oxide (PO) storage tanks at the Croda Mill Hall facility in Bald Eagle Township, **Clinton County**. The air contaminant emissions from the railcar unloading system will be controlled by a new sulfuric acid scrubber. The proposed construction and installation is subject to the Best Available Technology (BAT) requirements of 25 Pa. Code §§ 127.1 and 127.12 and the requirements of 40 CFR Part 63, Subpart PPP (National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production), Sections 63.1420—63.1439. This project will emit up to 60 pounds of VOCs and hazardous air pollutants (HAPs) in any 12 consecutive month period. This facility will remain as a major facility for volatile organic compound (VOC) emissions.

The Department of Environmental Protection's (Department) review of the information provided by Croda indicates that the sources at the facility will comply with all air quality requirements, including the best available technology (BAT) requirements of 25 Pa. Code §§ 127.1 and 127.12 pertaining to air contamination sources and the emission of air contaminants. Based on this finding, the Department intends to issue a plan approval for the proposed construction, installation, and operation of the sources and control device. Additionally, if the Department determines that the proposed sources and the air cleaning device are operating in compliance with the plan approval conditions, the conditions established in the plan approval will be incorporated into the Title V operating permit via an administrative amendment under 25 Pa. Code § 127.450.

The following is a summary of the conditions that the Department proposes to place in the plan approval to ensure compliance with all applicable regulatory requirements.

1. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the emission of ethylene oxide (EO) from the exhaust of the scrubber associated with the EO tank system shall not equal or exceed 50 pounds in any 12 consecutive month period.

2. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the scrubber shall destroy the EO emissions from railcar unloading and tank depressurization operations of the EO tank system at a destruction efficiency of no less than 99% (by weight). Compliance with the requirement specified in this streamlined condition assures compliance with the hazardous air pollutant (HAP) destruction efficiency requirement of 95% as specified in 40 CFR 63.119(e).

3. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the scrubber liquid flow rate of the scrubber associated with the EO and propylene oxide (PO) tank systems shall be no less than 18 gallons per minute during railcar unloading and tank depressurization operations associated with the EO and PO tank systems.

4. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the scrubber liquid pH of the scrubber associated with the EO and PO tank systems shall be no greater than 1.0 during railcar unloading and tank depressurization operations associated with the EO and PO tank systems.

5. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall install and maintain instrumentation to continuously and accurately measure the pressure differential across the scrubber associated with the EO and PO tank systems and the actual pressure differential shall be displayed on a continuous basis during railcar unloading and tank depressurization operations associated with the EO and PO tank systems. The permittee shall install and maintain instrumentation to continuously and accurately measure the scrubber liquid flow rate of the scrubber associated with the EO and PO tank systems and the actual scrubber water flow rate shall be displayed on a continuous basis during railcar unloading and tank depressurization operations associated with the EO and PO tank systems. The permittee shall monitor the pH of the scrubber liquid of the scrubber associated with the EO and PO tank systems at least once per day in which railcar unloading and tank depressurization operations associated with the EO and PO tank systems takes place.

6. The permittee shall keep records of the supporting calculations on a monthly basis for the exhaust of the scrubber associated with the EO tank system to verify compliance with the EO emission limitation in any 12 consecutive month period. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

7. The permittee shall keep records of the pressure differential across the scrubber associated with Source the EO and PO tank systems at least once per 15 minutes during railcar unloading and tank depressurization operations associated with the EO and PO tank systems, and shall record the corrective actions taken if the pressure differential is outside the designed pressure range. The permittee shall keep records of the scrubber liquid flow rate of the scrubber associated with the EO and PO tank systems at least once per 15 minutes during railcar unloading and tank depressurization operations associated with the EO and PO tank systems to verify compliance with the scrubber liquid flow rate limitation, and

shall record the corrective actions taken if the scrubber liquid flow rate is outside the designed flow rate range. The permittee shall keep records of the scrubber liquid pH of the scrubber associated with the EO and PO tank systems at least once per day in which railcar unloading and tank depressurization operations associated with the EO and PO tank systems takes place to verify compliance with the scrubber liquid pH limitation, and shall record the corrective actions taken if the scrubber liquid pH is outside the designed pH range. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

8. The permittee shall keep records of the number of EO railcar unloadings associated with the EO tank system on a monthly basis and shall verify compliance with the EO railcar unloading limitation in any 12 consecutive month period. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request. This condition supersedes Section D, Source ID P107, Condition No. 023 of Title V operating permit TVOP 18-00011.

9. The permittee shall submit reports to the Department on an annual basis that include the supporting calculations to verify compliance with EO emission limitation for the exhaust of the scrubber associated with the EO tank system in any 12 consecutive month period. The annual reports shall be submitted to the Department no later than March 1 (for January 1 through December 31 of the previous year).

10. In accordance with 40 CFR 63.120(d)(1)(i), the permittee shall submit a design evaluation that demonstrates compliance with the requirements of 40 CFR 63.119(e) and 63.1432. The design evaluation shall include documentation demonstrating that the scrubber associated with the EO and PO tank systems achieves 99% control efficiency during reasonably expected maximum filling rate. This documentation is to include a description of the gas stream which enters the control device, including flow, ethylene oxide content, and propylene oxide content under varying liquid level conditions. The design evaluation shall also include the manufacturer name and model number with design specifications the scrubber associated with the EO and PO tank systems. This report shall be submitted to the Department within 30 days of the installation and operation of the scrubber. Additional authority for this plan approval condition is derived from 40 CFR 63.1432, 63.119(e) and 63.120(d)(1)(i).

11. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the air contaminant emissions from railcar unloading process and tank depressurization operations associated with the EO tank system shall be controlled by the scrubber. The permittee shall only vent EO emissions from the unloading process or depressurize the tank associated with the EO tank system with the simultaneous operation of the scrubber. All EO railcars shall be first connected to the liquid transfer line and vapor balance line associated with the EO tank system before EO unloading is initiated. Once unloading is completed, all transfer lines shall be flushed with nitrogen before they are disconnected and any EO from the transfer lines shall be captured in the tank, the railcar, or be directed to the scrubber. This condition supersedes Section D, Source ID P107, Condition No. 029 of Title V operating permit TVOP 18-00011.

12. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the EO tank system shall be equipped with at least one rupture disk set at 95

psig or greater and at least one pressure relief valve set at 90 psig or greater. The EO tank system shall not be vented except through the distribution system, the return line to the railcar, the relief valve, or the scrubber. This condition supersedes Section D, Source ID P107, Conditions No. 031 and No. 042 of Title V operating permit TVOP 18-00011.

13. The EO tank system is a J.D. Cousins 30,000 gallon ethylene oxide storage tank and associated distribution system and railcar unloading system. The distribution system shall consist of the distribution equipment and a three inch stainless steel line from the storage tank, which will then branch off into various one inch lines to individual ethoxylation reactors. The railcar unloading system shall consist of liquid transfer and vapor balance lines, as well as a connection to the scrubber. The railcar unloading scrubber is a counter-current sulfuric acid scrubber designed to handle gas volumes of 34 to 39 SCFM. This condition supersedes Section D, Source ID P107, Condition No. 041 of Title V operating permit TVOP 18-00011.

14. Under the requirements of 40 CFR 63.1420, the EO tank system is subject to 40 CFR Part 63, Subpart PPP. The permittee shall comply with all the applicable requirements specified in 40 CFR 63.1420—63.1439. In accordance with 40 CFR 63.1432, the permittee shall comply with all the applicable requirements specified in 40 CFR 63.119—63.123 and the HON leak inspection provisions in 40 CFR 63.148, for the EO tank system. In accordance with 40 CFR 63.1434, the permittee shall comply with all the applicable requirements specified in 40 CFR 63.160—63.182, for the EO tank system.

15. The conditions contained in Section D, Source ID P107 in Title V operating permit TVOP 18-00011 remain in effect unless superseded or amended by conditions contained in this plan approval. If there is a conflict between a condition contained in this plan approval and a condition contained in Section D, Source ID P107 in Title V operating permit TVOP 18-00011, the permittee shall comply with the condition contained in this plan approval.

16. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the emission of propylene oxide (PO) from the exhaust of the scrubber associated with the PO tank system shall not equal or exceed 10 pounds in any 12 consecutive month period.

17. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not unload more than 12 PO containing railcars in any 12 consecutive month period.

18. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the scrubber shall destroy the PO emissions from railcar unloading and tank depressurization operations of the PO tank system at a destruction efficiency of no less than 99% (by weight). Compliance with the requirement specified in this streamlined condition assures compliance with the hazardous air pollutant (HAP) destruction efficiency requirement of 95% as specified in 40 CFR 63.119(e).

19. The permittee shall keep records of the supporting calculations on a monthly basis for the exhaust of the scrubber associated with the PO tank system to verify compliance with the PO emission limitation in any 12 consecutive month period. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

20. The permittee shall keep records of the number of PO railcar unloadings associated with the PO tank system on a monthly basis and shall verify compliance with the PO railcar unloading limitation in any 12 consecutive month period. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

21. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the following shall be recorded after each railcar unloading to the PO tank system; the tank level, the tank temperature, and the tank pressure. The records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

22. The permittee shall submit reports to the Department on an annual basis that include the supporting calculations to verify compliance with PO emission limitation for the exhaust of the scrubber associated with the PO tank system in any 12 consecutive month period. The semi-annual reports shall be submitted to the Department no later than March 1 (for January 1 through December 31 of the previous year).

23. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the air contaminant emissions from railcar unloading process and tank depressurization operations associated with the PO tank system shall be controlled by the scrubber. The permittee shall only vent PO emissions from the unloading process or depressurize the tank associated with the PO tank system with the simultaneous operation of the scrubber. All PO railcars shall be first connected to the liquid transfer line and vapor balance line associated with the PO tank system before PO unloading is initiated. Once unloading is completed, all transfer lines shall be flushed with nitrogen before they are disconnected and any PO from the transfer lines shall be captured in the tank, the railcar, or be directed to the scrubber.

24. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the PO tank system shall not be vented except through the distribution system, the return line to the railcar, the return line to the truck, the relief valve, or the scrubber.

25. The PO tank system is a 33,000 gallon propylene oxide storage tank and associated distribution system, truck unloading system, and railcar unloading system. The distribution system shall consist of the distribution equipment and a three inch stainless steel line from the storage tank, which will then branch off into various one inch lines to individual ethoxylation reactors. The truck unloading system shall consist of liquid transfer and vapor balance lines, as well as a pump. The railcar unloading system shall consist of liquid transfer and vapor balance lines, as well as a connection to the scrubber and a pump. The railcar unloading scrubber is a counter-current sulfuric acid scrubber designed to handle gas volumes of 34 to 39 SCFM.

26. Under the requirements of 40 CFR 63.1420 the PO tank system is subject to 40 CFR Part 63, Subpart PPP. The permittee shall comply with all the applicable requirements specified in 40 CFR 63.1420—63.1439. In accordance with 40 CFR 63.1432, the permittee shall comply with all the applicable requirements specified in 40 CFR 63.119—63.123 and the HON leak inspection provisions in 40 CFR 63.148, for the PO tank system. In accordance with 40 CFR 63.1434, the permittee shall comply with all the applicable requirements specified in 40 CFR 63.160—63.182, for the PO tank system.

27. The conditions contained in the conditions for the request for determination (RFD) approved by the Department on November 30, 2004 remain in effect unless superseded or amended by conditions contained in this plan approval. If there is a conflict between a condition contained in this plan approval and a condition contained in the conditions of approval for the aforementioned RFD, the permittee shall comply with the condition contained in this plan approval.

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

41-00080A: Chief Gathering, LLC (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090-7386) has submitted an application (41-00080A) to the Department of Environmental Protection (Department) for plan approval to construct two natural gas-fired compressor engines each equipped with oxidation catalysts at the Canoe Run Compressor Station located in Mifflin Township, **Lycoming County**.

The Department's review of the information submitted by Chief Gathering, LLC indicates that the construction of the compressor engines equipped with oxidation catalysts will meet all applicable air quality regulatory requirements pertaining to air contamination sources and the emission of air contaminants. Based on these findings, the Department intends to approve the application and issue plan approval for the construction of the compressor engines equipped with oxidation catalysts. Additionally, if the Department determines that the compressor engines equipped with oxidation catalysts are operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into a State-only operating permit via an administrative amendment under 25 Pa. Code § 127.450.

The following is a summary of the conditions that the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the two 2,370 brake horsepower, natural gas-fired reciprocating internal combustion engines shall incorporate a "clean burn" electronic control system to control NOx emissions. Additionally, the carbon monoxide, volatile organic compounds, and formaldehyde emissions from each engine shall be controlled by a GT Exhaust Systems Model #201VO-6-300-6124 oxidation catalyst units. The permittee shall not operate any of the engines without the simultaneous operation of each respective oxidation catalyst at any time.

2. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall only use pipeline quality natural gas as fuel for each engine.

3. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not permit the following air contaminant emissions from the exhaust of each oxidation catalyst associated with each engine in excess of the limitations listed as follows:

a. nitrogen oxides (NOx, expressed as NO₂)—0.50 gm/bhp-hr, 2.61 lb/hr, and 11.43 tons in any 12 consecutive month period,

b. carbon monoxide (CO)—0.275 gm/bhp-hr, 1.44 lb/hr and 6.29 tons in any 12 consecutive month period,

c. volatile organic compounds (VOC)—0.158 gm/bhp-hr, 0.82 lb/hr, and 3.60 tons in any 12 consecutive month period,

d. particulate matter (PM/PM10)—0.03 gm/bhp-hr, 0.16 lb/hr and 0.68 tons in any 12 consecutive month period,

e. formaldehyde—0.04 gm/bhp-hr, 0.21 lb/hr and 0.92 tons in any 12 consecutive month period, and

f. sulfur oxides (SOx, expressed as SO₂) emissions to not exceed 2 parts per million, by volume, dry basis.

4. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, each oxidation catalyst shall be capable of reducing the carbon monoxide emissions by 90% from each engine.

5. Under the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall equip each oxidation catalyst with instrumentation to monitor pressure drop across each oxidation catalyst and the inlet gas temperature of each oxidation catalyst and shall monitor these parameters on a continuous basis.

6. The permittee shall comply with all applicable requirements of Subpart ZZZZ of the National Emission Standards for Hazardous Air Pollutants for each engine as specified in 40 CFR 63.6580—63.6675.

7. The permittee shall comply with all applicable requirements of Subpart JJJJ of the Standards of Performance for New Stationary Sources for each engine as specified in 40 CFR 60.4230—60.4248.

8. The permittee shall perform nitrogen oxide (NOx, expressed as NO₂), carbon monoxide, volatile organic compound and formaldehyde stack tests upon each engine within 120 days from the commencement of operation of each engine to verify compliance with the emission limitations and the carbon monoxide destruction efficiency requirements from each oxidation catalyst associated with each engine.

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

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

08-00003I: CraftMaster Manufacturing, Inc. (P. O. Box 311, Towanda, PA 18848-0311) has submitted an application (#08-00003I) to the Department of Environmental Protection (Department) requesting to increase the nitrogen oxides (NOx) emission limitation associated with their die form tempering kiln and associated regenerative thermal oxidizer (RTO) used to control volatile organic compound (VOC) emissions from the kiln. The 4.7 tons per year increase in NOx emissions is to account for the emissions associated with the die form kiln process in

addition to the operation of RTO. This facility is a major facility for which a Title V operating permit has been issued.

The Department's review of the information submitted by CraftMaster Manufacturing, Inc. indicates that the proposed increase in NOx emissions will meet all applicable air quality regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the Best Available Technology requirements of 25 Pa. Code §§ 127.1 and 127.12. Based on these findings, the Department intends to approve the application and issue plan approval for the NOx emissions increase for the die form tempering kiln and associated RTO. Additionally, if the Department determines that the sources are operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into Title V operating permit 08-00003 by means of an administrative amendment under 25 Pa. Code § 127.450.

The following is a summary of the conditions that the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. Source ID 193P is as described in Title V operating permit 08-00003. Control Device ID C193 consists of an 8' by 8' by 8' water dropout box followed by a Durr model RL-15-V2-95 rotary RTO. The RTO is equipped with a Maxon Kinedizer high velocity type low-NOx natural gas/propane fired burner with a rated heat input of 2.5 mmBtu/hr. The RTO is also equipped with a natural gas injection system for NOx emissions reduction and lowered fuel consumption. The RTO is designed for a maximum inlet volume of 15,000 scfm.

2. This condition supersedes condition #001 of Section D Source ID 193P of plan approval 08-00003E. Under the best available technology provisions of 25 Pa. Code §§ 127.1 and 127.12, the NOx and CO emissions from the die form kiln of Source ID 193P and associated RTO (Control Device ID C193) shall not exceed the following:

- a) For NOx: 2.89 lbs/hr and 6.6 tons in any 12 consecutive month period.
- b) For CO: 3.17 lbs/hr and 9.7 tons in any 12 consecutive month period.

3. All conditions contained in Title V operating permit 08-00003 and plan approval 08-00003E remain in effect unless superseded or amended by conditions contained in this plan approval. If there is a conflict between a condition or requirement contained in this plan approval and a condition or requirement contained in Title V operating permit 08-00003 or plan approval 08-00003E, the permittee shall comply with the condition or requirement contained in this plan approval rather than the conflicting condition or requirement contained in Title V operating permit 08-00003 or plan approval 08-00003E.

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

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.

PA-65-00986A: Tiger Door, LLC (574 West Otterman Street, Greensburg, PA) for construction of a composite plastic door manufacturing facility at 1181 Garden Street in Hempfield Township, **Westmoreland County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.45, the Department of Environmental Protection (Department) intends to issue a Plan Approval to allow the construction of a composite plastic door manufacturing facility located at 1181 Garden Street in Hempfield Township, Westmoreland County.

Sources at this facility will include open composite plastic molding, surface coating, coating additives, and cleaning solvents. Annual emissions from the facility are limited to 12 tons of VOCs and 6 tons of HAPs. BAT for this operation consists of low VOC surface coatings, low HAP resins, HVLP spray guns, responsible operator training and best operating practices.

The proposed facility is subject to the applicable requirements of Title 25 Pa. Code, Chapters 121—145. The Department believes that the facility will meet these requirements by complying with Plan Approval conditions relating to restrictions, monitoring, recordkeeping, reporting and work practice standards:

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Jacob Chemsak, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the following:

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

Identification of the proposed Plan Approval (specify the Plan Approval number).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

All comments must be received prior to the close of business 30 days after the date of this publication.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Gary Dan Husted, Chief, West Permitting Section—Telephone: 814-949-7935.

36-05028: CNH America, LLC (500 Diller Avenue, New Holland, PA 17557-9301) for operation of a hay and forage equipment manufacturing facility in New Holland Borough, **Lancaster County**. This action is a renewal of the Title V Operating Permit issued in 2005. The primary sources of emissions are Volatile Organic Compounds (VOC) and Hazardous Air Pollutants (HAP) from coating operations. The emissions are estimated at 75 tpy of VOC and 2.5 tpy of HAPs. The Title V operating permit number 36-05028 renewal will contain monitoring,

recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Zaman, Facilities Permitting Chief—Telephone: 570-327-0512.

53-00003: National Fuel Gas Supply Corp. (P. O. Box 2081, Erie, PA 16512-2081) for renewal of their Title V Operating Permit for their facility in Allegany Township, **Potter County**. The facility's sources include 11 natural gas-fired heaters and boilers rated less than 2.5 million Btu per hour, two 9.8 million Btu per hour natural gas-fired pipeline heaters, one 1,000 horsepower natural gas-fired compressor engine, two 2,000 horsepower natural gas-fired compressor engines, one 2,850 horsepower natural gas-fired compressor engine, two 3,000 horsepower natural gas-fired compressor engines, two 1,300 horsepower natural gas-fired compressor engines, one 4,445 horsepower natural gas-fired compressor engine, three 200 horsepower natural gas-fired auxiliary generators, two triethylene glycol dehydration units, 24 storage tanks, three parts washers and pipeline valves and flanges. The facility has the potential to emit nitrogen oxides (NO_x), carbon monoxide, volatile organic compounds (VOCs) and hazardous air pollutants (HAPs) above the major emission thresholds. The potential emissions for particulate matter (PM/PM₁₀) and sulfur oxides (SO_x) are below their respective major emission thresholds. The nine compressor engines and three auxiliary generators are subject to Subpart ZZZZ of the Federal National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, 40 CFR 63.6580—63.6675. The proposed Title V operating permit renewal contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

53-00008: National Fuel Gas Supply Corp. (P. O. Box 2081, Erie, PA 16512-2081) for renewal of the Title V Operating Permit for their facility in Wharton Township, **Potter County**. The facility's sources include ten natural gas-fired heaters and boilers rated less than 2.5 million btu per hour, three 540 horsepower natural gas-fired compressor engines, two 720 horsepower natural gas-fired compressor engines, two natural gas-fired emergency generators, four storage tanks, three parts washers, two *de minimus* water sump tanks and pipeline valves and flanges. The facility has the potential to emit carbon monoxide above the major emission threshold. The potential emissions for nitrogen oxides (NO_x), volatile organic compounds (VOCs), particulate matter (PM/PM₁₀), sulfur oxides (SO_x) and hazardous air pollutants are below their respective major emission thresholds. The five compressor engines and two emergency generators are subject to Subpart ZZZZ of the Federal National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, 40 CFR 63.6580—63.6675. The proposed Title V operating permit renewal contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

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

33-00159: Brookville Mining Equipment Corp. (175 Evans Street, P. O. Box 130, Brookville, PA 15825) to issue a renewal State-only Operating Permit for their facility in Pine Creek Township, **Jefferson County**. The facility is a Natural Minor. The facility manufactures and restores mining and railroad cars and other equipment. The primary sources at the facility include a spray booth for coating and a heater for the booth and a parts cleaner. The facility uses some coatings that contain the Target HAP so the requirements for 40 CFR 63 Subpart HHH-HHH have been included in the renewal permit. The renewal permit also contains emission restrictions, recordkeeping, work practice and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

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.

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

PA 40-399-66: Acton Technologies (100 Thompson Street, Pittston, PA 18640) for installation of a new Regenerative Thermal Oxidizer (RTO) to control malodorous emissions at their facility in Jenkins Township, **Luzerne County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (Department) has received and intends to issue a Plan Approval to Acton Technologies (100 Thompson Street, Pittston, PA 18640) for their facility in Jenkins Township, Luzerne County. This Plan Approval No. 40-399-66 will be incorporated into a Natural Minor Permit through an administrative amendment at a later date.

Plan Approval No. 40-399-066 is for the installation of a new RTO to control malodorous emissions at their facility. VOC emissions from the plant will remain under their 50 tpy threshold limit, 12-month rolling sum. Malodorous emissions will be controlled by the use of a new RTO. The oxidizer will be required to have a destruction efficiency of at least 98%. These limits will meet BAT requirements for this source. A stack test will be required to verify these limits.

The Department will place a condition for the facility to continuously monitor the combustion temperature in the oxidizer. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

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

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

Identification of the proposed permit No.: 40-399-066.

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

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, Phone No. 570-826-2511 within 30 days after publication date.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

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

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

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

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

When a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal Applications Received

Effluent Limits—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

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

¹The 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.

Permit No. 30831303, Cumberland Coal Resources, LP, (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Cumberland Mine in Whiteley Township, **Greene County**, ACOE Pittsburgh. Garards Fort, PA Quadrangle from N: 14.88 inches; W: 16:88 inches to N: 15.05 inches; W: 16.78 inches. This is a Chapter 105 Water Obstruction and Encroachment permit application (Stream Module 15), and 401 Water Quality Certification request, if applicable, submitted as part of the mining permit revision application to authorize the stream restoration for stream flow loss resulting from longwall mining to one acre of unnamed tributary 41267 to Dyers Fork. Written comments or objections on the request for Section 401 Water Quality Certification or to the issuance of the Water Obstruction and Encroachment Permit, (Stream Module 15) may be submitted to the Department of Environmental Protection within 30 days of the date of this notice to the District Mining Office identified previously. Comments should contain the name, address and telephone number of the person commenting, identification of the request for 401 Water Quality Certification and Chapter 105 permit application, (Stream Module 15) to which the comments or objections are addressed and a concise statement of facts upon which they are based. The Water Obstruction and Encroachment permit application is available for review at the California District Mining Office, by appointment, at the address listed previously. Application received August 18, 2009.

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

Permit No. 03100101 and NPDES Permit No. PA0251927. Bedrock Mines, LP (111 Freeport Road, Pittsburgh, PA 15215). Application for commencement, operation and reclamation of a bituminous surface mine, located in North Buffalo Township, **Armstrong County**, affecting 33.3 acres. Receiving streams: unnamed tributaries to Nicholson Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: April 4, 2010.

Permit No. 03080101 and NPDES Permit No. PA0251364. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Application received for transfer of permit currently issued to Mountain Coal Co., Inc., for continued operation and reclamation of a bituminous surface mining site located in Redbank Township, **Armstrong County**, affecting 125 acres. Receiving streams: unnamed tributaries to Mahoning Creek, classified for the following use: cold water fishes. There is no potable water supply intake within 10 miles downstream from the point of discharge. Transfer application received: March 16, 2010.

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

Permit No. 16940105 and NPDES Permit No. PA0212130. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767) Renewal of an existing bituminous surface strip operation in Perry Township, **Clarion County** affecting 220.0 acres. Receiving streams: Three unnamed tributaries to the Allegheny River, classified for the following: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: April 9, 2010.

Permit No. 16050105 and NPDES Permit No. PA0242659. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127) Renewal of an existing bituminous strip operation in Redbank Township, **Clarion County** affecting 57.1 acres. Receiving streams: Unnamed tributary to Pine Creek, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Hawthorn Area Water Authority. This application is for reclamation only. Application received: April 12, 2010.

Permit No. 33100103 and NPDES Permit No. PA0258873. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127) Commencement, operation and restoration of a bituminous strip operation in Corsica Borough and Union Township, **Jefferson County** affecting 25.0 acres. Receiving streams: Welch Run, classified for the following use: CWF. There is no potable surface water supply intake within 10 miles downstream. Application received: April 12, 2010.

Permit No. 5522-33100103-E-1. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127) Application for a stream encroachment to construct a haul road over Welch Run in Corsica Borough and Union Township, **Jefferson County**. Receiving streams: Welch Run, classified for the following use: CWF. There is no potable surface water supply intake within 10 miles downstream. Application received: April 12, 2010.

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

Permit No. 17990122 and NPDES No. PA0242772. AMFIRE Mining Company, LLC (One Energy Place,

Latrobe, PA 15650). Renewal of an existing bituminous surface mine located in Brady and Bloom Townships, **Clearfield County** affecting 107.2 acres. Receiving streams: unnamed tributaries of Little Anderson Creek (CWF) to Anderson Creek (CWF), unnamed tributary to Bell Run (CWF); unnamed tributary to Irish Run (CWF). There is no potable water supply intake within 10 miles downstream. Application received April 2, 2010.

Permit No. 17100105 and NPDES No. PA0257338. TDK Coal Sales, Inc. (Address correction—should be: 279 Shannon Road, Monongahela, PA 15063). Commencement, operation and restoration of a bituminous surface mine located in Penn Township, **Clearfield County** affecting 364.3 acres. Receiving streams: unnamed tributaries to Daily Run to Curry Run to the West Branch of the Susquehanna River classified for Cold Water Fisher-

ies. There is no potable water supply intake within 10 miles downstream. Application received March 22, 2010.

Permit No. 17743172 and NPDES No. PA0610909. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Renewal of an existing bituminous surface mine located in Morris Township, **Clearfield County** affecting 569.0 acres. Receiving streams: unnamed tributaries to Hawk Run (Cold Water Fishery) and unnamed tributaries to Moshannon Creek (Trout Stocked Fishery). There is no potable water supply intake within 10 miles downstream. Application received April 2, 2010.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Parameter	Table 2		
	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

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

Permit No. 31100301 and NPDES Permit No. PA0263001. Glass Bagging Enterprises, Inc., P. O. Box 120, Duncansville, PA 16635, Hopewell and Liberty Townships, **Huntingdon** and **Bedford Counties**. Receiving stream(s): unnamed tributaries to Shy Beaver Creek classified for the following use: cold water fishery. There is no potable water supply intake within 10 miles downstream. Application received April 2, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 4873SM3C3 and NPDES Permit No. PA0595021. Kinsley Construction, Inc., (P. O. Box 2886, York, PA 17405), renewal of NPDES permit for discharge of treated mine drainage from a quarry operation in Springettsbury Township, **York County**, and receiving stream: Codorus Creek, classified for the following use: warm water fishery. Application received: April 8, 2010.

Permit No. 6277SM1A1C8 and NPDES Permit No. PA0595080. Compass Quarries, Inc., d/b/a Independence Construction Materials, (47 McIlvaine Road, Paradise, PA 17562), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Paradise Township, **Lancaster County**, and receiving stream: Londonland Run, classified for the following use: cold water fishes. Application received: April 8, 2010.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Floodplain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southcentral Region: Watershed Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Telephone: 717-705-4707.

E50-247: Millerstown Area Community Park, Millerstown Borough and Greenwood Township, c/o Katy Black, Greenwood Township Secretary, P. O. Box 616, Millerstown, PA 17062, Greenwood Township and Millerstown Borough, Perry County, ACOE Baltimore District.

To construct and maintain: 1) a 9,800.0 square foot amphitheater; 2) a 3,024.0 square foot bituminous access drive; 3) a 2,720.0 square foot bituminous parking area; 4) a 2,600.0 square foot playground; 5) a 5.0-foot wide by 486.0-foot long asphalt walkway; 6) an 8.0-foot wide by 758.0-foot long asphalt trail; 7) two 20.0-foot wide by 30.0-foot long pavilions in the floodway; 8) a 20.0-foot wide by 40.0-foot long pavilion in the floodplain of the Juniata River; and 9) a 6.83-foot wide, single span pedestrian bridge having a normal span of 73.5 feet and an underclearance of 15.89 feet across Cocolamus Creek (TSF), all for the purpose of expanding and upgrading an existing community park. The project is located on Juniata Parkway (SR 1015), approximately 0.4 mile southwest of its intersection with Route 22 (Millerstown, PA Quadrangle N: 7.1 inches; W: 3.2 inches, Latitude: 40° 32' 27.64"; Longitude: 77° 8' 55.57") in Greenwood Township and Millerstown Borough, Perry County. No wetlands will be impacted.

E36-869: Donegal Chapter of Trout Unlimited, P. O. Box 8001, Lancaster, PA 17604, Conowingo Creek Stream Restoration (Project #6), East Drumore Township, Lancaster County, ACOE Baltimore District.

The project comprises a 3,700.0-foot section of the Conowingo Creek and McFarlands Run (both HQ-CWF) that flows through the Herb Weaver Farm property in East Drumore Township, Lancaster County. The project will create a more natural ecosystem, stabilize streambanks, improve flood storage capacity and improve fish habitat. By utilizing both natural and traditional stream restoration methods. This will be accomplished through the installation of rock deflectors, boulder walls and toe riprap, bank grading, erosion control matting, live stakes, bank shrub, tree plantings, cover logs and random boulder placement and the removal of approximately 3,161.0 cubic yards of legacy sediment to create adjacent wetlands and floodwater storage. The purpose of the project is to restore and stabilize the stream segment as part of the Conowingo Creek TMDL Implementation Plan of 2006. The Herb Weaver Farm property is located (Wakefield, PA Quadrangle N: 14.2 inches; W: 9.2 inches, Latitude: 39° 49' 45.3"; Longitude: 76° 11' 26.0") in East Drumore Township, Lancaster County.

E01-291: Realty Leasing & Management Company, 1270 Fairfield Road, Gettysburg, PA 17325, Cumberland Township, Adams County, ACOE Baltimore District.

The applicant proposes to place and maintain fill in two palustrine emergent (PEM) wetlands totaling 0.03 acre, and two intermittent unnamed tributaries to Willoughby Run (WWF), totaling 515.0 linear feet, for the purpose of

constructing a housing development. The project is located west of the Borough of Gettysburg on Deatrick Drive (Fairfield, PA Quadrangle N: 13.47 inches; W: 0.82 inch, Latitude: 39° 49' 27"; Longitude: -77° 15' 21") in Cumberland Township, Adams County. The permittee proposes to provide a minimum of 0.04 acre of replacement wetlands onsite.

E01-294: Patrick Shaeffer, 1147 Eichelberger Street, Hanover, PA 17331, McSherrystown Borough, Adams County, ACOE Baltimore District.

The applicant proposes to remove the existing structure and to construct and maintain a 716.0-foot long, dual 38.0-inch by 57.0-inch, elliptical corrugated metal pipe culvert in an unnamed tributary to Plum Creek (WWF) with a depressed rip rap apron extending 100.0 feet downstream for the purpose of constructing a housing development. The project is located between Second Street and Sterling Drive (McSherrystown, PA Quadrangle N: 9.1 inches; W: 3.1 inches, Latitude: 39° 47' 59"; Longitude: 77° 01' 17") in McSherrystown Borough, Adams County.

E22-558: Oak Grove High Street, LLC, Dennis Schmidt, 1000 North Front Street, Suite 500, Wormleysburg, PA 17043, Oak Grove Subdivision, Middletown Borough, Dauphin County, ACOE Baltimore District.

To place and maintain fill in 0.018 acre of PEM wetlands, and to construct and maintain a 3.0-inch diameter and 6.0-inch diameter PVC water line, an 8.0-inch diameter PVC sewer line, and seven 4.0-inch diameter SLPP underdrain pipes in the floodway of an unnamed tributary to Swatara Creek (WWF). The project also includes the removal of approximately 6.18 cubic yards of material from the floodway of the unnamed tributary to Swatara Creek (WWF), and the grading and paving of an 8,450.0-square foot area in the floodway of an unnamed tributary to Swatara Creek (WWF). The purpose of the project is to create five apartment buildings and associated access and parking facilities. The project is located immediately north of the intersection of Spruce and East High Streets (Middletown, PA Quadrangle N: 14.0 inches; W: 14.5 inches, Latitude: 40° 12' 8.5" N; Longitude: 76° 43' 39.7" W) in Middletown Borough, Dauphin County. Wetland impacts are *de minimis* and wetland mitigation is not required.

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E14-532: Bush Landscaping, 3156 Marengo Road, Port Matilda, PA 16870. Half Moon Valley Llama Farm, in Halfmoon Township, Centre County, ACOE Baltimore District (Port Matilda, PA Quadrangle N: 40° 46' 11"; W: 78° 2' 25").

To construct and maintain BMPS to reduce excess water flow across the Half Moon Valley Llama Farm: 1) On the left bank: a) 2 riprapped aprons for barn roof gutter runoff, b) 2 riprapped aprons for existing vegetated swale outlets; 2) sculpt and revegetate two existing vegetated swales to provide better drainage through the pasture in the left floodway; and 3) maintain an existing pedestrian bridge across the Half Moon Creek, located 1/2 mile south on Marengo Road from SR 550. This project proposes to impact 50 linear feet of Half Moon Creek, which is classified as a High Quality-Cold Water Fishery.

E49-306. Department of Transportation, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. SR 0045 Canal Culvert Structure Replacement, West Chillisquaque Township, Northumberland

County, ACOE Baltimore District (Northumberland, PA Quadrangle N: 40° 58' 03"; W: 76° 51' 52").

Department of Transportation, Engineering District 3-0 proposes to replace the existing 42 inch concrete culvert located in an old canal on SR 0045. The proposed culvert is a 60 inch concrete pipe. The horizontal alignment will dramatically change the outlet location. The proposed inlet elevation will be lowered approximately 0.9 ft and the outlet elevation will be lowered 2.5 ft. The Canal is classified as a Warm Water Fishery by Title 25, Chapter 93 Water Quality Standards. The proposed project does not propose to impact any jurisdictional wetlands.

ENVIRONMENTAL ASSESSMENTS

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

EA36-023, High Associates, Ltd., Tammy Engel, 102 Summers Drive, Lancaster, PA 17601, East Lampeter Township, **Lancaster County**, ACOE Baltimore District.

To restore and stabilize 300.0 linear feet of an unnamed tributary (UNT) to Stauffer Run (WWF) for the purpose of enhancing the stream corridor at a point approximately 0.28 mile east of the intersection of Fallon Drive and Greenfield Road (Leola, PA Quadrangle 10.5 inches North; 17.0 inches West, Latitude: 40° 3' 26"; Longitude: 76° 14' 49") in East Lampeter Township, **Lancaster County**.

EA36-018: PPL Holtwood, LLC, Dennis J. Murphy, VP/COO, 2 North 9th Street, Allentown, PA 18101, Martic Township, **Lancaster County**, ACOE Baltimore District.

To amend the Water Quality Certification and Environmental Assessment Approval issued on June 15, 2009, for the Holtwood Hydroelectric Station, FERC Project No. 1881, to include: (1) cumulative impacts to approximately 7.76 acres of shallow water habitat and approximately 13.49 acres of deep water habitat and 23.54 acres of impacts to fluctuation zone habitat; (2) excavation in the project tailrace (33.49 acres), the forebay (3.2 acres) and Piney Channel (6.68 acres); (3) cumulative impacts to 1.24 acres of palustrine emergent and forested wetlands, approximately 7.76 acres of shallow water habitat, approximately 13.49 acres of deep water habitat, and 23.54 acres of impacts to fluctuation zone habitat; (4) the construction and maintenance of 0.26 acre emergent wetland, 2.14 acres forested wetland and establish 5.26 acres of riparian upland forest at the Prescott Road

Wetland and Forest Mitigation Site located west-northwest of the intersection of Prescott and River Roads (SR 441) in Bainbridge, Conoy Township, Lancaster County, PA (York Haven, PA Quadrangle Latitude: 40° 06' 35.70" N; Longitude: 76° 41' 18.36" W) in the 100 year floodplain of the Susquehanna River (WWF) as the alternate wetland mitigation location; (5) the creation of 3.28 acres of riparian forest and 1.32 acres of upland forest along 1,700.0 linear feet of the Conestoga River on a property that is currently an agricultural field located along Conestoga Boulevard, upstream of River Road Bridge, in Safe Harbor, Lancaster County, PA (Safe Harbor, PA Quadrangle Latitude: 39° 56' 46.5" N; Longitude: 76° 22' 46.2" W) adjacent to the Conestoga River (WWF); (6) construction and maintenance of a 129.0-foot long by 20.0-foot wide boat ramp, a 25.0-foot by 20.0-foot ADA accessible fishing platform and dock, 28 trailer spaces, 5 car parking spaces and the placement and maintenance of 1,633.0 cubic yards of material in and along the Susquehanna River (WWF) (Conestoga, PA Quadrangle N: 2.5 inches; W: 16.5 inches, Latitude: 39° 53' 17.4" N; Longitude: 76° 22' 0.5" W) for the purpose of improving the Pequea Boat Launch; and (7) construction and maintenance of a new 92.2-foot long by 12.0-foot wide boat ramp and the expansion of an existing boat ramp to have a total length of 80.0 feet and a width of 12.0 feet in Pequea Creek (WWF) located approximately 75-feet upstream of the railroad bridge near the confluence with the Susquehanna River (Conestoga, PA Quadrangle N: 2.35 inches; W: 16.39 inches, Latitude: 39° 53' 16.2" N; Longitude: 76° 22' 0.7" W) as part of the improvements to the Pequea Boat Launch.

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D45-040. Minsi Trails Council, Inc., Minsi Trails Council, Inc., Boy Scouts of America, c/o Thomas R. Harrington, P. O. Box 20624, Lehigh Valley, PA 18002. To modify, operate and maintain the Stillwater Lake Dam across the Upper Tunkhannock Creek (HQ-CWF), impacting 0.28 acre of wetlands (PEM) and 15 feet of stream and providing a minimum of 0.28 acre of wetland mitigation, for the purpose of upgrading Stillwater Lake Dam to comply with the Department of Environmental Protection's Dam Safety Regulation (Pocono Pines, PA Quadrangle N: 21.3 inches; W: 6.9 inches) in Tobyhanna Township, **Monroe County**.

ACTIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0082635 (SEW)	ELS Sun Valley, LP (Sun Valley Campground Wastewater Treatment Plant) Two North Riverside Plaza Suite 800 Chicago, IL 60606	Lancaster County Brecknock Township	UNT Rock Run 7-J	Y
PA0086142 (SEW)	Washington Township Municipal Authority 120 Barto Road P. O. Box 156 Bally, PA 19503-0421	Berks County Washington Township	West Branch of Upper Perkiomen Creek 3-E	Y
PA0021237 (SEW)	Newport Borough Municipal Authority 231 Market Street Newport, PA 17074-1590	Perry County Newport Borough	Juniata River 12-B	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0020583 SP	Middleburg Municipal Authority 13 North Main Street Middleburg, PA 17842	Snyder County Middleburg Borough	Middle Creek 6A	Y
PA0228214 (Industrial Waste)	CCDA Waters, LLC 217 AquaPenn Drive Howard, PA 16841	Centre County Boggs Township	Bald Eagle Creek 9-C	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0003565 (Industrial Waste)	Morgan Advanced Materials and Technology 1118 East Second Street Coudersport, PA 16915	Potter County Eulalia Township	Mill Creek SWP16C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0020125 Sewage	Borough of Monaca 928 Pennsylvania Avenue Monaca, PA 15061	Beaver County Monaco Borough	Ohio River	N
PA0091413 Sewage	North Strabane Township Municipal Authority 1929B Route 519 South Canonsburg, PA 15317	Washington County North Strabane Township	UNT of Little Chartiers Creek	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0032751	Department of Transportation Bureau of Design P. O. Box 3060 Harrisburg, PA 17105	Mercer County Deer Creek Township	Unnamed tributary to Black Run 16-G	Y
PA0032760	Department of Transportation Bureau of Design P. O. Box 3060 Harrisburg, PA 17105	Mercer County Deer Creek Township	Unnamed tributary to Lake Wilhelm (Sandy Creek) 16-G	Y
PA0101851	Sisters of Humility of Mary, Inc. P. O. Box 906 Villa Maria, PA 16155	Lawrence County Pulaski Township	Unnamed Tributary to Coffee Run 20-B	Y
PA0002038	OMG Americas, Inc. P. O. Box 111 Franklin, PA 16323-0111	Venango County Sugar creek Borough	Race Run Outfalls 001, 003—008 Allegheny River Outfall 002 Two Mile Run Outfalls 009—011 16-E	Y
PA0239445	Sugar Grove Area Sewer Authority 195 Creek Road Sugar Grove, PA 16350-5803	Warren County Sugar Grove Township	Stillwater Creek 16-B	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

NPDES Permit No. PA0050342, Amendment No. 1, Sewage, Upper Pottsgrove Township, 1409 Farmington Avenue, Pottstown, PA 19464. This proposed facility is located in Upper Pottsgrove Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for an amendment of the permit by extending the dates for Tier 2 effluents limit requirements from April 1, 2010, to September 1, 2010. The original NPDES permit has been issued to approve a discharge of 17,900 gpd of treated sewage to the Sprogels Run in Watershed 3D.

NPDES Permit No. PA0244236, Amendment 1, Sewage, Upper Makefield Township, 1076 Eagle Road, Newtown, PA 18940. This proposed facility is located in Upper Makefield Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for an amendment to their NPDES permit to discharge 55,550 gpd of treated sewage into Hough's Creek in Watershed 2E.

NPDES Permit No. PA0056481, Amendment No. 1, Sewage, Oak Grove Country Inn, LLC, 34 Durham Road, Ottsville, PA 18942. This proposed facility is located in Bedminster Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for a transfer of NPDES permit from Oak Grove Country Inn to Oak Grove Country Inn, LLC due to change of ownership.

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

NPDES Permit No. PA0027316, Amendment No. 2, Sewage, **City of Lebanon Authority**, 2311 Ridgeview Road, Lebanon, PA 17042. This proposed facility is located in North Cornwall Township, **Lebanon County**.

Description of Proposed Action/Activity: Authorization to discharge to Quittapahilla Creek in Watershed 7-D.

NPDES Permit No. PA0260274, CAFO, **Clifford Gayman, Hillside Poultry**, 1849 Letterkenny Road, Chambersburg, PA 17201. This proposed facility is located in Hamilton and Greene Townships, **Franklin County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a 1,300-AEU layer operation located in Watershed 13-C.

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

PAS214802, Industrial Waste, SIC 3271, **Beavertown Block Co., Inc.**, P. O. Box 337, 3612 Paxtonville Road, Middleburg, PA 17842-0337. This proposed facility is located in Franklin Township, **Snyder County**.

Description of Proposed Activity: Previously the applicant received coverage under an NPDES PAG-03 permit. However, a site inspection discovered the stream was being impaired by sedimentation leaving the site. The applicant is now required to receive coverage under an individual NPDES permit.

The receiving stream, Unnamed Tributary to Middle Creek, is in the State Water Plan watershed 6A and is classified for: CWF, MF. The nearest downstream public water supply intake for United Water Pennsylvania is located on Susquehanna River and is 57.6 miles below the point of discharge.

There are no effluent limits. PAG-03 Appendix J monitoring requirements have been assigned.

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

NPDES Permit No. PA0221686, Industrial Waste, **PW Hardwoods, LLC**, 11424 Route 36, Brookville, PA 15825. This existing facility is located in Oliver and Rose Townships, **Jefferson County**.

Description of Proposed Action/Activity: Issuance of a new NPDES permit for an existing discharge of stormwater. This is a minor discharge.

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

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

WQM Permit No. WQG010031, Sewerage, **Francine Paczkoski**, 2961 Upper Ridge Road, Pennsburg, PA 18073. This proposed facility is located in Marlborough Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a small flow single residence sewage treatment plant.

WQM Permit No. 0995416, Sewerage, Transfer, **Oak Grove Country Inn**, 34 Durham Road, Ottsville, PA 18942. This proposed facility is located in Bedminster Township, **Bucks County**.

Description of Action/Activity: Permit transferred from Mr. Walter Clee to Tom and Priscilla Vanderlely.

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

WQM Permit No. 6710401, Sewage, **West Manchester Township**, 320 East Berlin Road, York, PA 17404. This proposed facility is located in West Manchester Township, **York County**.

Description of Proposed Action/Activity: Permit approval for the construction of facilities consisting of: replacement of the existing shiloh interceptor from manhole no. 473 to manhole no. 22, approximately 8,676' of the interceptor will be replaced by pipe bursting and the remaining 450' will be replaced by open trench method.

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

WQM Permit No. 4109405, Sewerage, SIC 4952, **Williamsport Sanitary Authority**, 253 West Fourth Street, Williamsport, PA 17701-6113. This existing facility is located in City of Williamsport, **Lycoming County**.

Description of Proposed Action/Activity: Permit issued approving the construction and operation of nutrient removal upgrades including the conversion of the aeration system to a MLE process and the addition of a side stream treatment process.

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

WQM Permit No. 6510403, Sewerage, **Hempfield Township Municipal Authority**, 1145 Woodward Drive, Greensburg, PA 15601. This proposed facility is located in Hempfield Township, **Westmoreland County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a sewer interceptor.

WQM Permit No. 0471406-A1, Sewerage, **Municipal Authority of the Borough of Midland**, 10th Street and Railroad Avenue, Midland, PA 15059. This existing facility is located in Midland Borough, **Beaver County**.

Description of Proposed Action/Activity: Permit amendment issuance for installation of an emergency generator.

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

WQM Permit No. WQG018740, Sewerage, **John W. Kane**, 5389 Harborgreene Road, Erie, PA 16510. This proposed facility is located in Greene Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a single Residence Sewage Treatment Plant.

WQM Permit No. WQG028323, Sewerage, **Pine-Harrisville Authority**, 545 Barkeyville Road, Grove City, PA 16127. This proposed facility is located in Liberty and Pine Townships, **Mercer County**.

Description of Proposed Action/Activity: Issuance of a Water Quality Permit that involves the construction and operation of a low pressure sewer system to serve existing 147 existing homes.

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023907009	Jaindl Land Company 3150 Coffeetown Road Orefield, PA 18069-2511	Lehigh	North Whitehall Township	Hassen Creek HQ-CWF, MF Jordan Creek TSF, MF
PAI023510002	Baptist Bible College 538 Vernard Road Clarks Summit, PA 18411	Lackawanna	South Abington Township	Leggetts Creek CWF, MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033609006	Jim Wiggins Wesley United Methodist Church Seven Wesley Road P. O. Box 364 Quarryville, PA 17568	Lancaster	Colerain Township	Stewart Run HQ-CWF

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

Somerset County Conservation District, 6024 Glades Pike, Suite 103, Somerset, PA 15501, (814-445-4652).

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI055609005-1	National Park Service Mr. Keith Newlin Deputy Superintendent 109 West Main Street Suite 104 Somerset, PA 15501	Somerset	Stonycreek Township	Grove, Lamberts and Calendars Runs Watersheds CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage

PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

*General Permit Type—PAG-2**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Upper Providence Township Montgomery County	PAG200 4609035	KAP Realty Group, LLC 131 Lincoln Road Collegeville, PA 19426	Mingo Creek Tributary WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Frederick Township Montgomery County	PAG0200 4609086	Alfred E. Manning P. O. Box 303 1202 North Gravel Pike Zieglerville, PA 19492	Swamp Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
New Hanover Township Montgomery County	PAG0200 4610011	Sal Lapio Homes, Inc. 104 Mill Road Sellersville, PA 18960	Swamp Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Horsham Township Montgomery County	PAG0200 4609104	Robert Self, Jr. 172 Shady Brook Circle Warrington, PA 18976	Davis Grove Tributary TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Upper Dublin Township Montgomery County	PAG0200 4609106	Upper Dublin Township 801 Loch Alsh Avenue Ft. Washington, PA 19034	Rapp and Sandy Runs TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Limerick Township Montgomery County	PAG200 4608083	Ron Diesinger 23 Diesinger Road Schwenksville, PA 19473	Lodal Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG0201 5109043	CSX Transportation 2000 West Cabot Boulevard Suite 130 Langhorne, PA 19407	Pennypack Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Rice Township Luzerne County	PAG2004009020	Mark J. Luchi 98 Dogwood Road Drums, PA 18222	Big Wapwallopen Creek CWF, MF Little Wapwallopen Creek CWF, MF	Luzerne County Conservation District 570-674-7991
Stroudsburg Borough Monroe County	PAG2004510001	Borough of Stroudsburg Attn: Barbara Quarantello 700 Sarah Street Stroudsburg, PA 18360	Brodhead Creek TSF, MF McMichaels Creek TSF, MF	Monroe County Conservation District 570-629-3060
Catasauqua Borough Lehigh County	PAG2003910001	Catasauqua Area School District Attn: Robert Spengler 201 North 14th Street Catasauqua, PA 18032	Catasauqua Creek CWF, MF	Lehigh County Conservation District 610-391-9583

NOTICES

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<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Lower Allen Township Cumberland County	PAG2002110006	Mark X. DiSanto Triple Crown Corporation 5351 Jaycee Avenue Harrisburg, PA 17112	Cedar Run CWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717-240-7812
Millersville Borough Lancaster County	PAG2003610016	Ted and Diane Silar 240 East Cottage Avenue Millersville, PA 17551	Conestoga River WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
Brecknock Township Lancaster County	PAG2003610017	AC Homes 965 Park Road Blandon, PA 19510	UNT to Muddy Creek TSF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
Manor Township Lancaster County	PAG2003610018	Murry Co. Sher-Wal, Inc. 1899 Lititz Pike Lancaster, PA 17601	UNT to Little Conestoga WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
Paradise Township York County	PAG2006704108-R	Paul Burkentine Stone Ridge Development Corporation 1500 Baltimore Pike Hanover, PA 17331	Beaver Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Sandy Township City of DuBois Clearfield County	PAG2001710004	Fort Worth Pipe Services, LP P. O. Box 388 Falls Creek, PA 15840-0388	Sandy Lick TSF Clear Run CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Shamokin Dam Borough Snyder County	PAG2005509005	Daniel Reyes Reyes Drive-Ins, LLC 550 Pinetown Road Suite 332 Fort Washington, PA 19364	Susquehanna River WWF	Snyder County Conservation District 403 West Market Street Middleburg, PA 17842 (570) 837-0007 Ext. 5
Beaver County Economy Borough	PAG2000404018-R	Robert Mihok Maronda Homes, Inc. 202 Park West Drive Pittsburgh, PA 15275	UNT to Big Sewickley Creek TSF	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 1501 724-378-1701
Clarion County Piney Township	PAG2091610002	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Anderson Run CWF	Department of Environmental Protection Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 814-472-1800

*General Permit Type—PAG-3**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Huntingdon County Shirley Township	PAR233512	Containment Solutions, Inc. 14489 Croghan Pike Mount Union, PA 17066	Juniata River WWF 12-C	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Cumberland County Silver Springs Township	PAR603576	Safety-Kleen Systems, Inc. (New Kingstown Branch) 10 Eleanor Drive New Kingstown, PA 17072	Hogestown Run CWF 7-B	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Blair County Duncansville Borough	PAR803721	A. Duie Pyle, Inc. 650 Westtown Road P. O. Box 564 West Chester, PA 19381-0564	UNT to Gilians Run CWF	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Potter Township Centre County	PAR604830	Moyer's Auto Wrecking 138 Lower Georges Valley Road Spring Mills, PA 16875	Potter Run CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664
Lycoming County City of Williamsport	PAR604840	Staiman Recycling— Rail Breaking Division P. O. Box 1235 Williamsport, PA 17703	Fox Hollow to West Branch Susquehanna	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664
City of Sharon, Mercer County	PAR118342	Sunbelt Transformer, Inc. 670 South Dock Street Sharon, PA 16146-1867	Shenango River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942
Summerville Borough Jefferson County	PAR218315	Glen-Gery Corporation P. O. Box 7001 Wyomissing, PA 19610-6001	Unnamed tributary of Redbank Creek and Redbank Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942
Greene Township Erie County	PAG049570	John W. Kane 5389 Harborgreene Road Erie, PA 16510	Unnamed tributary to Six Mile Creek 15	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942

*General Permit Type—PAG-7**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Columbia Borough Lancaster County	PAG073510	Columbia Municipal Authority P. O. Box 509 Columbia, PA 17512-0509	Columbia Wastewater Department 440 South Front Street Columbia, PA 17512	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 717-705-4707

General Permit Type—PAG-8

*Facility Location:
Municipality
County*

Marietta Borough
Lancaster County

Permit No.
PAG083601

*Applicant Name &
Address*
Marietta-Donegal
Joint Authority
50 Furnace Road
Marietta, PA 17547

*Site Name &
Location*
Marietta-Donegal
Joint Authority
50 Furnace Road
Marietta, PA 17547

*Contact Office &
Phone No.*
DEP—SCRO
909 Elmerton Avenue
Harrisburg,
PA 17110-8200
717-705-4707

General Permit Type—PAG-10

*Facility Location:
Municipality &
County*

North Union
Township
Fayette County

Permit No.
PAG106128

*Applicant Name &
Address*
Texas Eastern
Transmission, LP
5400 Westheimer Court
5D-6D
Houston, TX 77056

*Receiving
Water/Use*
UNT to Cove Run

*Contact Office &
Phone No.*
Southwest Regional Office
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh PA 15222-4745
(412) 442-4000

STATE CONSERVATION COMMISSION

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

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

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Marvin Long 4251 Fletcher Drive Greencastle, PA 17225	Franklin	215	402.07	Poultry/ Heifers	NA	Approved
Mercer Vu Farms, Inc. 12275 Mt. Pleasant Road Mercersburg, PA 17236	Franklin	1,394	2,101.88	Dairy	NA	Approved

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Operations Permit 4610510 issued to **Great Oak Spring Water Company**, 101 Cleveland Avenue, Reading, PA 19605.

(PWSID #3066215) New Hanover Township, Montgomery County on 03/04/2010, for the operation of Facilities approved under construction permit No. 4608513 for operation of the Great Oak Spring Water vending facility located at Freed's Supermarket.

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

Permit No. 0110501, Minor Amendment, Public Water Supply.

Applicant	Hillandale Gettysburg, LP
Municipality	Tyrone Township
County	Adams
Responsible Official	Ronald R. Ballew, Environmental Compliance Manager 370 Spicer Road Gettysburg, PA 17325

Type of Facility	Installation of an arsenic removal system at Site 2.
Consulting Engineer	Harry E. Bingaman, P. E. Glace Assoc., Inc. 3705 Trindle Road Camp Hill, PA 17011
Permit to Construct Issued:	4/16/2010

Operations Permit issued to **Gettysburg Municipal Authority**, 7010019, Cumberland Township, **Adams County** on 4/15/2010 for the operation of facilities approved under Construction Permit No. 0108503.

Operations Permit issued to **South Mountain Spring Water Company**, 7386487, South Lebanon Township, **Lebanon County** on 4/15/2010 for the operation of facilities approved under Construction Permit No. 3810501 MA.

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

Permit No. 1069502-T1-MA8, Public Water Supply.

Applicant	Pennsylvania American Water
Township or Borough	Jefferson and Summit Townships
County	Butler County
Type of Facility	Public Water Supply
Consulting Engineer	William Lage, P. E.
Permit to Construct Issued	04/15/2010

Permit No. 1009504, Public Water Supply.

Applicant	Cranberry Township
Township or Borough	Cranberry Township
County	Butler County
Type of Facility	Public Water Supply
Consulting Engineer	James R. Bowser
Permit to Construct Issued	04/19/2010

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location: Mount Joy Township, Adams County

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Mt. Joy Township	902 Hoffman Home Road Gettysburg, PA 17325	Adams

Plan Description: The approved plan provides for the adoption of an onlot management, holding tank and well driller ordinances. The name of the project is The Mount Joy Township Sewage Facilities Plan and the DEP code # is A1-01924-ACT. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality, authority or owner as appropriate.

SEWAGE FACILITIES ACT PLAN DISAPPROVAL**Plan Disapprovals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)**

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Longswamp Township	P. O. Box 37 Mertztown, PA 19539	Berks

Plan Description: The Longswamp Township Act 537 Plan Update was disapproved because Longswamp Township failed to respond to the Department of Environmental Protection's December 22, 2009, letter within the time frame specified in that letter.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION**UNDER ACT 2, 1995****PREAMBLE 2**

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Lakeside Energy, 10 Maplewood Drive, Hazle Township, **Luzerne County**. Jeffrey C. Thomas, EPSYS, LLC, 1414 North Cameron Street, Suite A, Harrisburg, PA 17103 has submitted a Final Report (on behalf of his client, Lakeside Energy, LLC, 150 North Michigan Avenue, Suite 2930, Chicago, IL 60601), concerning the remediation of soils found to have been impacted by motor oil when discovered in December 2008. 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 Standard-Speaker* on March 26, 2010.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Fortuna Energy Inc. Phinney Road Release, Troy Township, **Bradford County**. URS Corp., 4507 North Front Street, Suite 200, Harrisburg, PA 17110 on behalf of Fortuna Energy, Inc., 337 Daniel Zenker Drive, Horseheads, NY 14845 has submitted a Final Report within 90 days of the release concerning remediation of site soil contaminated with diesel fuel. 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.

Pennzoil Rouseville Refinery (Plant 2), Cornplanter Township, **Venango County**. URS Corporation, 200 Orchard Ridge Drive, Suite 101, Gaithersburg, MD 20878 on behalf of Pennzoil Quaker State Company, Environmental Services, 910 Louisiana OSP 687, Houston, TX 77002 has submitted a Cleanup Plan concerning remediation of site soil contaminated with benzene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, benzo[a]pyrene, 1,2,3-trichloropropane, 1,1,2,2-tetrachloroethane, dibenzofuran, arsenic, iron, thallium, lead and site groundwater contaminated with 1,3,5-trimethylbenzene, 1,2,4-trimethylbenzene, methyl tert-butyl ether, benzene, 2-hexanone and SOV's. The Cleanup Plan is intended to document remediation of the site to meet the Site-Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION**UNDER ACT 2, 1995****PREAMBLE 3**

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of

concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Ryan Kehl Residence, Exeter Township, **Berks County**. Trimpi Associates, Inc., 1635 Old Plains Road, Pennsylvania, PA 18073, on behalf of Ryan Kehl, 1036 Reading Avenue, Birdsboro, PA 19508, submitted a Final Report for site soils contaminated with No. 2 fuel oil from an aboveground storage tank. The Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on April 15, 2010.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Fortuna Energy Klein R. Wellpad, Armenia Township, **Bradford County**. URS Corp, 4507 North Front Street, Suite 200, Harrisburg, PA 17110 on behalf of Fortuna Energy, Inc., 337 Daniel Zenker Drive, Horseheads, NY 14845 has submitted a Final Report within 90 days of the release concerning remediation of site soil contaminated with brine constituents. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 8, 2010.

Munroe Farm Site, Castanea Township, **Clinton County**. American Color & Chemical, LLC, P. O. Box 88, Lock Haven, PA 17745 has submitted a Cleanup Plan

concerning the remediation of site groundwater contaminated with dichlorobenzene, nitroamine, chloroaniline, aluminum, antimony, benzene, bis(2-ethylhexyl) phthalate, chlorobenzene, nickel and nitrobenzene. The Cleanup Plan was approved by the Department of Environmental Protection on February 23, 2010.

Williamsport Terminal (Former Atlantic Terminal). Armstrong Township, **Lycoming County**. Aquaterra Technologies, Inc., P. O. Box 744, West Chester, PA 19320 on behalf of Sunoco, Inc. (R&M), 1109 Milton Avenue, Syracuse, NY 13204 has submitted a combined Remedial Investigation Report/Cleanup Plan concerning remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Remedial Investigation Report/Cleanup Plan was approved on April 16, 2010.

Hazardous Waste Action

Variances issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for hazardous waste management facilities.

Southwest Regional Office: Regional Manager, Waste Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

American Iron Oxide Company (AMROX), 2 Wheeling Pittsburgh Steel Drive, Allenport, PA 15412. Renewal of a variance from solid waste classification for spent pickle liquor used by AMROX for acid regeneration and iron oxide production at its facility in Allenport Borough, **Washington County** was approved by the Regional Office on April 6, 2010.

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.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 101662. Conshohocken Rail, LLC, 1060 Conshohocken Road, Conshohocken, PA 19428, Plymouth Township, **Montgomery County**. This permit was issued to allow for the short-term, continued operation of the Conshohocken Rail, LLC facility, an existing construction and demolition waste transfer station facility, during the review of the facility's 10-year renewal application. The permit was issued by the Southeast Regional Office on April 13, 2010.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

54-310-052GP3: R. E. Pierson Construction Co. (P. O. Box 430, Woodstown, NJ 08098-0430) on April 7,

2010, to install and operate a portable crushing operation at their site at Middleport Materials in Walker Township, **Schuylkill County**.

66-310-015GP3: Meshoppen Stone, Inc. (P. O. Box 127, Frantz Road, Meshoppen, PA 18630) on March 29, 2010, to construct and operate a Portable Crushing Operation with watersprays in Meshoppen Township, **Wyoming County**.

66-329-002GP9: Meshoppen Stone, Inc. (P. O. Box 127, Frantz Road, Meshoppen, PA 18630) on March 29, 2010, to install and operate a Diesel I/C engine in Meshoppen Township, **Wyoming County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Gary Helsel, Chief, West Permitting Section—Telephone: 814-949-7935.

GP3-21-03096: Pennsy Supply, Inc. (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17105) on April 15, 2010, for a crusher, screen and six conveyors at Silver Spring Quarry, Silver Spring Township, **Cumberland County**.

GP9-21-03096: Supply, Inc. (1001 Paxton Street, P. O. Box 3331, Harrisburg PA 17105) on April 15, 2010, for two diesel-fired internal combustion engines at Silver Spring Quarry, Silver Spring Township, **Cumberland County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.

GP9-63-00650: Reaxis, Inc. (941 Robinson Highway, McDonald, PA 15057-2213) on April 13, 2010, for their McDonald Plant at Robinson Township, **Washington County**. The General Permit is being authorized for a Cummins Model QSX15-G9 755 bhp diesel or No. 2 fuel-fired engine that will be used to generate electricity during times of power outages and to briefly provide auxiliary power to plant air compressors to reduce peak electrical demand.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

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

23-0100A: Pyramid Materials—Division of Haines and Kibblehouse, Inc. (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on April 15, 2010, to install a nonmetallic mineral processing plant at an existing facility at 414 West Knowlton Road, Media, PA 19063, Aston Township, **Delaware County**. The facility is a synthetic minor for oxides of nitrogen (NOx). The permittee will take limitations to remain a synthetic minor facility for NOx and a natural minor facility for all other pollutants. The Plan Approval will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

35-318-095: BAE Systems—SDS of PA, Inc. (11 Alberigi Drive, Jessup, PA 18434) on April 16, 2010, to operate two paint spray booths at their facility in Jessup Borough, **Lackawanna County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Gary Helsel, Chief, West Permitting Section—Telephone: 814-949-7935.

38-05023C: Pennsy Supply, Inc. (1 Clear Spring Road, Annville, PA 17003) on April 12, 2010, for a new asphalt plant in South Lebanon Township, **Lebanon County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: David Aldenderfer, Program Manager—Telephone: 570-327-3637.

41-00079A: Eureka Resources, LLC (301 Charles Street, South Williamsport, PA 17702-7428) on April 16, 2010, to modify a gas well water treatment operation at the Williamsport, **Lycoming County** facility.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Mark Gorog and Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.

30-00183A: EQT Gathering, LP (225 North Shore Drive, Pittsburgh, PA 15212) on April 19, 2010, to allow construction of two (2) 2,370-bhp Caterpillar/Ariel 3608 compressor engines controlled by CO/VOC catalysts, one (1) additional discharge filter, one (1) additional contactor tower and reboiler skid, one (1) 450-kw emergency generator and seven (7) tanks and operation of the existing one (1) 1,340 Caterpillar G3516 LE compressor engine and one (1) discharge filter and one (1) contactor tower and reboiler skid at the Jupiter Compressor Station, located in Morgan Township, **Greene County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

23-0111A: Centocor Research & Development, Inc. (145 King of Prussia Road, Radnor, PA 19087) on April 19, 2010, to operate (2) two diesel-fired internal combustion units in Radnor Township, **Delaware County**.

46-0069C: Highway Materials, Inc. (1750 Walton Road, Blue Bell, PA 19422) on April 19, 2010, to operate a shaker style baghouse in Whitmarsh Township, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Gary Helsel, Chief, West Permitting Section—Telephone: 814-949-7935.

06-05069O: East Penn Manufacturing Co., Inc. (P. O. Box 147, Lyon Station, PA 19536-0147) on April 30, 2010, to construct and modify their miscellaneous metal parts surface coating lines and control equipment at their battery assembly facility in Richmond Township, **Berks County**. This plan approval was extended.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: David Aldenderfer, Program Manager—Telephone: 570-327-3637.

14-00014D: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) on April 14, 2010, to extend the authorization to construct a mineral filler storage silo and associated bulk truck loadout spout, a RAP crusher, two single deck screens, three RAP bins, three belt feeders and five belt conveyors in the facility's asphalt concrete plant, a cone crusher, a vibrating feeder, a belt feeder and six belt conveyors in the facility's primary crushing operation, five belt conveyors and three storage silos in the facility's limestone conveying operation, a liquid asphalt storage tank in the facility's oil/liquid asphalt storage operation, a portable crushing plant and associated diesel engine and two water pumps and associated diesel engines, as well as for the modification of the facility's secondary crushing operation's description, the modification of the facility's railcar loading/unloading operation to permit the loading of railcars and the modification of the facility's two portable plants to limit the hours of operation of each plant to 2,000 hours per year, at their Spring Township, **Centre County** facility.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: M. Gorog and B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.

32-00059B: RRI Energy Northeast Management Co.—Conemaugh Power Plant (121 Champion Way, Canonsburg, PA 15317) on April 13, 2010, for additional time to complete construction of the equipment included in their coal processing plant in West Wheatfield Township, **Indiana County**. Extension of the plan approval has been approved until April 18, 2011.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Gary Helsel, Chief, West Permitting Section—Telephone: 814-949-7935.

36-05017: Conestoga Wood Specialties Corp. (245 Reading Road, East Earl, PA 17519-0158) on April 13, 2010, for their facility in East Earl Township, **Lancaster County**. This is a renewal of the operating permit.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Zaman, Facilities Permitting Chief—Telephone: 570-327-3637.

60-00002: NGC Industries, LLC (P. O. Box 210, West Milton, PA 17886) on April 5, 2010, to operate their Milton Plant in White Deer Township, **Union County**. The Title V Operating Permit contains monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulatory requirements.

19-00007: Transcontinental Gas Pipeline Co. (P. O. Box 1396, Houston, TX 77251-1396) on April 2, 2010, for their Station 517—natural gas compression station in Jackson Township, **Columbia County**. Renewal Title V Operating Permit 19-00007 contains monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulations.

53-00002: Transcontinental Gas Pipeline Co. (P. O. Box 1396, Houston, TX 77251-1396) on April 14, 2010, to issue a renewal Title V Operating Permit 53-00002 for their Station 535—natural gas compression station in Wharton Township, **Potter County**. Renewal Title V Operating Permit 53-00002 contains monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulations.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

46-00056: Hale Products, Inc. (700 Spring Mill Avenue, Conshohocken, PA 19428) on April 15, 2010, for operation of three (3) test engines, two (2) emergency generators and two (2) spray booths at their manufacturing plant in Conshohocken Borough, **Montgomery County**. The renewal permit is for a non-Title V (State-only) facility. The facility has elected to cap Volatile Organic Compound (VOC) and Nitrogen Oxide (NOx) emissions to less than 25 tons per year each; therefore, the facility is a Synthetic Minor. The renewal permit will include monitoring, recordkeeping and reporting requirements designed to keep the plant operating within all applicable air quality requirements.

15-00044: Sunoco Partners Marketing & Terminals, LP—Exton Terminal (623 East Lincoln Highway, Exton, PA 19341) on April 16, 2010, for operation of three (3) distillate storage tanks and one loading rack in East Whiteland Township, **Chester County**. This action is a renewal of a State-only Operating Permit (Synthetic Minor), which was originally issued on March 30, 2005. The facility took distillate throughput restrictions to maintain its VOC and HAP emissions below the threshold levels. The renewal contains monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: David Aldenderfer, Program Manager—Telephone: 570-327-3637.

53-00016: Tennessee Gas Pipeline Co. (P. O. Box 2511, Houston, TX 77252-2511) on March 26, 2010, to issue a renewal State-only Operating Permit for Station 313A in Genesee Township, **Potter County**. The State-only operating permit contains monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulatory requirements.

19-00028: White Pines Corp. (2650 Audubon Road, Audubon, PA 19403-2406) on March 29, 2010, to issue an initial State-only Operating Permit for their White Pines Landfill facility in Pine Township, **Columbia County**. State-only Operating Permit 19-00028 contains monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulatory requirements.

41-00040: Williamsport Foundry Co. Inc. (164 Maynard Street, Williamsport, PA 17701) on March 30, 2010, to operate a foundry in the City of Williamsport, **Lycoming County**. The State-only operating permit

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

41-00047: Wildwood Cemetery Co. (1151 Cemetery Street, Williamsport, PA 17701-1605) on April 9, 2010, to operate their facility in Loyalsock Township, **Lycoming County**. The State-only operating permit contains monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulatory requirements.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: David Aldenderfer, Program Manager—Telephone: 570-327-3637.

08-399-001B: Global Tungsten & Powders, Corp. (Hawes Street, Towanda, PA 18848-0504) on March 15, 2010, to issue a minor modification operating permit for their heavy wire department at their facility in North Towanda Township, **Bradford County**. This operating permit revision is to require the particulate matter emissions from Order Swagers No. 1, No. 2 and No. 3 to be controlled by the Seneca S76-Sm14 fabric collector and associated HEPA filter system. The modification of the sources will cause an insignificant emission increase. The operating permit contains applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

18-00026: First Quality Products (P. O. Box 270, 121 North Road, McElhattan, PA 17748) on March 22, 2010, to issue a revised Synthetic Minor operating permit, Revision No. 2 for their facility in Wayne Township, **Clinton County**. Revision No. 2 was issued on March 22, 2010, for an administrative amendment to incorporate the terms and conditions of Plan Approval 18-00026A that was approved on July 28, 2009, for the construction and operation of a Fameccanica FIU underpad machine designated as Line 33 (Source ID P111) controlled by a three-stage filter system (Control Device C111). The revision became effective on March 22, 2010. All new and revised requirements including monitoring, recordkeeping and reporting conditions of the revised Synthetic Minor operating permit became effective on March 22, 2010. The Synthetic Minor operating permit will expire on June 11, 2012. This revised Synthetic Minor operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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

03-00202: Peoples Natural Gas Company, LLC—Roaring Run Station (1201 Pitt Street, Pittsburgh, PA 15221-2029) on April 15, 2010, for an administrative amendment for a permittee's name change as well as a change in the responsible official name and phone number in Kiskiminetas Township, **Armstrong County**. The facility's major sources of emissions include a compressor engine for natural gas transmission, an auxiliary power generating engine, a parts washer and fugitive VOC emissions.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

Permit No. 56090109 and NPDES No. PA0262838, Godin Mining, Inc., 128 Colton Drive, Stoystown, PA 15563 commencement, operation and restoration of a bituminous surface mine in Lincoln Township, **Somerset County**, affecting 20.5 acres. Receiving stream(s): UNTs to Quemahoning Creek classified for the following use(s): cold water fishery. There is no potable water supply intake within 10 miles downstream. Application received June 26, 2009. Permit issued: April 12, 2010.

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

Permit No. 03950113 and NPDES Permit No. PA0201529. Britt Energies, Inc. (2450 Philadelphia Street, Indiana, PA 15701). Transfer of permit formerly issued to Seven Sisters Mining Co., Inc., for continued operation and reclamation of a bituminous surface mining site located in Burrell and South Bend Townships, **Armstrong County**, affecting 93.0 acres. Receiving streams: Crooked Creek to Allegheny River. Application received: May 19, 2008. Transfer permit issued: April 15, 2010.

Permit No. 03040102 and NPDES Permit No. PA0250601. Thomas J. Smith, Inc. (2340 Smith Road, Shelocta, PA 15774). Permit renewal issued for continued reclamation only of a bituminous surface mining site located in Boggs Township, **Armstrong County**, affecting 87.5 acres. Receiving streams: unnamed tributaries to North Fork of Pine Creek. Application received: March 23, 2010. Renewal issued: April 14, 2010.

Permit No. 65990101 and NPDES Permit No. PA0202428. Gary Gioia Coal Company (319 Karen Drive, Elizabeth, PA 15037). Permit renewal issued for continued operation and reclamation of a bituminous surface mining site located in South Huntingdon Township, **Westmoreland County**, affecting 19 acres. Receiving streams: unnamed tributary to Youghiogheny River. Application received: February 18, 2010. Renewal issued: April 15, 2010.

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

Permit No. 37030101 and NPDES Permit No. PA0242314. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001) Renewal of an existing bituminous strip operation in Wayne Township, **Lawrence County** affecting 132.0 acres. This renewal is issued for reclamation only. Receiving streams: Unnamed tributary to Slippery Rock Creek. Application received: February 5, 2010. Permit Issued: April 14, 2010.

Permit No. 33090106 and NPDES Permit No. PA0258792. MSM Coal Company, Inc. (P. O. Box 243, DuBois, PA 15801) Commencement, operation and restoration of a bituminous strip operation in Knox Township, **Jefferson County** affecting 37.9 acres. Receiving streams: Fivemile Run. Application received: November 13, 2009. Permit Issued: April 14, 2010.

Permit No. 1361-33090106-E-1. MSM Coal Company, Inc. (P. O. Box 243, DuBois, PA 15801) Application for a stream encroachment to conduct mining activities within 100 feet of unnamed tributary No. 2 to Fivemile Run in Knox Township, **Jefferson County**. Receiving streams: Fivemile Run. Application received: November 13, 2009. Permit Issued: April 14, 2010.

Permit No. 33010103 and NPDES Permit No. PA0241954. Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849) Renewal of an existing bituminous strip operation in Winslow Township, **Jefferson County** affecting 103.0 acres. This renewal is issued for reclamation only. Receiving streams: Unnamed tributary to Sandy Lick Creek. Application received: November 23, 2009. Permit Issued: April 16, 2010.

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

Permit No. 17070116 and NPDES No. PA0256668. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Revision to an existing bituminous surface mine to add a coal seam (Upper Kittanning) on 30.7 acres in Sandy Township, **Clearfield County** and Winslow Township, **Jefferson County** affecting 552.0 acres. Receiving streams: Nine (9) unnamed tributaries to Sandy Lick Creek (Cold Water Fishery) and Sandy Lick Creek (Trout Stocked Fishery) to Redbank Creek (Trout Stocked Fishery) to the Allegheny River (Warm Water Fishery) to the Ohio River (Warm Water Fishery). There is no potable water supply intake within 10 miles downstream. Application received November 16, 2009. Permit issued April 14, 2010.

Permit No. 17080114 and NPDES No. PA0256951. Waroquier Coal Co. (P. O. Box 128, Clearfield, PA 16830). Commencement, operation and restoration of a bituminous surface mine located in Jordan Township, **Clearfield County** affecting 97.0 acres. Receiving streams: North Witmer Run (Cold Water Fishery) and Davidson Run (Cold Water Fishery). There is no potable water supply intake within 10 miles downstream. Application received November 3, 2010. Permit issued April 13, 2010.

Permit No. 17990120 and NPDES No. PA0242756. AMFIRE Mining Co., LLC (One Energy Place, Latrobe, PA 15650). Permit renewal of an existing bituminous surface and auger mine located in Penn Township, **Clearfield County** affecting 37.5 acres. Receiving streams: unnamed tributaries to Bell Run, Bell Run to

the West Branch of the Susquehanna River classified for Cold Water Fisheries. There is no potable water supply intake within 10 miles downstream. Application received January 19, 2010. Permit issued April 13, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 49080105 and NPDES Permit No. PA0224723. Keystone Anthracite Co., Inc. (132 Main Street, Girardville, PA 17935), commencement, operation and restoration of an anthracite surface mine operation in Zerbe and West Cameron Townships, **Northumberland County** affecting 938.4 acres, receiving streams: Zerbe Run and Mahanoy Creek. Application received: December 15, 2008. Permit issued: April 14, 2010.

Permit No. 54040103R. Summit Anthracite, Inc. (196 Vista Road, Klingertown, PA 17941), renewal of an existing anthracite surface mine and refuse disposal operation in Blythe and Schuylkill Townships, **Schuylkill County** affecting 785.0 acres, receiving stream: none. Application received: October 6, 2009. Renewal issued: April 19, 2010.

Noncoal Permits Actions

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

Permit No. 03920301 and NPDES Permit No. PA0097250. Continental Clay Company (P. O. Box 1013, 260 Oak Avenue, Kittanning, PA 16201). NPDES permit renewal issued for continued operation and reclamation of a large noncoal surface mining site located in Rayburn Township, **Armstrong County**, affecting 334.5 acres. Receiving streams: unnamed tributaries to Allegheny River. Application received: March 10, 2010. NPDES Renewal issued: April 13, 2010.

Permit No. 26840301 and NPDES Permit No. PA0200042. Norman Thomson (P. O. Box 10, Lemont Furnace, PA 15456). NPDES permit renewal issued for continued operation and reclamation of a large noncoal surface mining site located in North Union Township, **Fayette County**, affecting 50.2 acres. Receiving streams: unnamed tributary to Cove Run. Application received: March 18, 2010. NPDES Renewal issued: April 15, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 40060301C2. Pioneer Aggregates, Inc. (215 Saylor Street, Laflin, PA 18702), depth correction to an existing quarry operation to mine to 600 feet MSL in Plains Township, **Luzerne County** affecting 190.5 acres, receiving stream: none. Application received: August 27, 2009. Correction issued: April 14, 2010.

Permit No. 46030301C and NPDES Permit No. PA02243008. Gibraltar Rock, Inc. (355 Newbold Road, Fairless Hills, PA 19030), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in New Hanover Township, **Montgomery County**, receiving stream: unnamed tributary to Swamp Creek. Application received: March 8, 2010. Renewal issued: April 15, 2010.

Permit No. 58092810. Robert A. Coleman, (P. O. Box 3, Susquehanna, PA 18847), commencement, operation and restoration of a quarry operation in Oakland Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received September 15, 2009. Permit issued April 15, 2010.

**ACTIONS ON BLASTING ACTIVITY
APPLICATIONS**

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

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

Permit No. 26104005. Geokinetics, Inc. (R. R. 6, Box 6176, Towanda, PA 18848). Blasting activity permit for seismic exploration to the Ohio Pyle 2-D, located in Henry Clay Township, **Fayette County**. The expected duration of blasting is 1 year. Permit issued: April 14, 2010.

Permit No. 26104006. Shallenberger Construction (2611 Memorial Avenue, Connellsville, PA 15425). Blasting activity permit for the Sittler #1 Atlas Resources Well site, located in Franklin Township, **Fayette County**. The expected duration of blasting is 2 months. Permit issued: April 14, 2010.

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

Permit No. 42104009. Pennsylvania General Energy Co., LLC (120 Market Street, Warren, PA 16365) Blasting Activity Permit for stone removal in Liberty Township, **McKean County**. This blasting activity permit will expire on July 1, 2010. Permit Issued: April 16, 2010.

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

Permit No. 08104003. Doug Wathen, LLC (16282 State Highway 13, Suite J, Branson West, MO 65616). Construction blasting for the Lundy Project located in Standing Stone Township, **Bradford County**. Permit issued March 25, 2010. Permit expires May 30, 2010.

Permit No. 14104002. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866). Construction blasting for Beaver Heights Apartments, Phase II, located in Bellefonte Borough, **Centre County**. Permit issued April 1, 2010. Permit expires December 30, 2010.

Permit No. 41104002. Brainard Explosives, LLC (3978 SR 2073, Kingsley, PA 18826-0980). Blasting for a well pad located in Shrewsbury Township, **Lycoming County**. Permit issued April 1, 2010. Permit expires April 30, 2010.

Permit No. 53104001. Geokinetics (R. R. 6, Box 6176, Towanda, PA 18848). Seismic exploration blasting located in Liberty and Annin Townships and Port Alleghany Borough, **McKean County** and Pleasant Valley, Clara, Roulette, Hebron and Sharon Townships, **Potter County**. Permit issued April 8, 2010. Permit expires May 1, 2011.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 36104113. 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 1, 2011. Permit issued April 12, 2010.

Permit No. 36104114. Warren's Excavating & Drilling, Inc. (P. O. Box 214, Myerstown, PA 17067) construction blasting at 6045 Hickory Drive, Elizabethtown in West Donegal Township, **Lancaster County** with an expiration date of March 25, 2011. Permit issued April 12, 2010.

Permit No. 39104101. Warren's Excavating & Drilling, Inc. (P. O. Box 214, Myerstown, PA 17067) construction blasting for Park Ridge Estates in South Whitehall Township, **Lehigh County** with an expiration date of April 1, 2011. Permit issued April 12, 2010.

Permit No. 46104101. MD Drilling & Blasting, Inc. (88 Goldledge Avenue, Suite 2, Auburn, NH 03032) construction blasting for Sanatoga Springs Costco Wholesale Store in Limerick Township, **Montgomery County** with an expiration date of December 31, 2010. Permit issued April 12, 2010.

Permit No. 58104012. M & S Blasting, LLC (943 Gontarski Road, Hallstead, PA 18822) construction blasting for the Gesford Nos. 4 and 8 Tank Pad in Dimock Township, **Susquehanna County** with an expiration date of March 30, 2011. Permit issued April 14, 2010.

Permit No. 58104013. M & S Blasting, LLC (943 Gontarski Road, Hallstead, PA 18822) construction blasting for the A. Warner 1H and 2H Tank and Well Pad in Dimock and Jessup Townships, **Susquehanna County** with an expiration date of March 30, 2011. Permit issued April 14, 2010.

Permit No. 36104115. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543) construction blasting for Clearview Gardens in Clay Township, **Lancaster County** with an expiration date of December 31, 2010. Permit issued April 14, 2010.

Permit No. 36104116. Warren's Excavating & Drilling, Inc. (P. O. Box 214, Myerstown, PA 17067) construction blasting for Lapp Fence Lot in West Lampeter Township, **Lancaster County** with an expiration date of April 7, 2011. Permit issued April 14, 2010.

Permit No. 09104103. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092) construction blasting for Wal-Mart in Hilltown Township, **Bucks County** with an expiration date of April 7, 2011. Permit issued April 15, 2010.

**FEDERAL WATER POLLUTION
CONTROL ACT SECTION 401**

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483.

TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Floodplain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 P.S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued:

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E21-412: Greenray Industries, Inc., 840 West Church Road, Mechanicsburg, PA 17055, Stormwater Outfall, Mechanicsburg Borough, **Cumberland County**, ACOE Baltimore District.

To construct and maintain a 96-inch wide by 16-inch high concrete stormwater outfall and R-4 riprap apron in Trindle Spring Run (CWF) for the purpose of discharging from a stormwater basin in Mechanicsburg Borough, Cumberland County (Mechanicsburg, PA Quadrangle N: 15.28 inches; W: 3.72 inches, Latitude: 40° 12' 33"; Longitude: -77° 01' 35").

E50-246: Trout Brothers Farm, LLC, Mike Trout, R. D. 2, Box 200C, 508 Red Rock Road, Loysville, PA 17047, Jackson Township, **Perry County**, ACOE Baltimore District.

To construct and maintain ten 24-inch diameter by 26-foot long concrete pipe culverts with a minimum 6-inch depression in Sherman Creek (HQ-CWF) located immediately upstream of the covered bridge just south of the Adams Grove and Red Rock Roads intersection, for the purpose of accessing agricultural lands (Andersonburg, PA Quadrangle N: 14.50 inches; W: 16.27 inches, Latitude: 40° 19' 45"; Longitude: 77° 29' 30") in Jackson Township, Perry County.

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E14-529. Aquillas S. Peachey, 2806 East Valley Road, Loganton, PA 17747-9648. Timbering Bridge, in Miles

Township, **Centre County**, ACOE Baltimore District (Madisonburg, PA Quadrangle N: 40° 57' 5.6"; W: 77° 31' 38.9").

To operate and maintain: 1) a 30-foot by 12-foot manufactured steel beam portable bridge with a wood deck, an 18-foot clear span, and a 26-inch underclearance over Laurel Run; and 2) a 100-foot long rock lined road-side ditch that outlets into Laurel Run at the upstream left edge of the bridge, for the purpose of permanently maintaining an existing bridge for future timbering and taking care of wildlife food plots located 1/2 mile down Gettig Lane from SR 445 and 775 feet north under an existing power line. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E14-530. Department of Transportation, Engineering District 2-0, 1924 Daisy Street Extension, Clearfield, PA 16830. SR 2006, Section A01 Bridge Replacement and Stream Relocation in Harris Township, **Centre County**, ACOE Baltimore District (State College, PA Quadrangle Latitude: 40° 47' 47"; Longitude: 77° 45' 38").

The applicant proposes to replace a single span, single lane I-beam bridge with a single span, two lane concrete box culvert over an Unnamed Tributary to Cedar Run (also known as Mackey Run). The proposed box culvert will be located approximately 150 feet north of the existing structure along the existing roadway alignment. Approximately 250 feet of stream will be relocated and will result in a loss of approximately 84 feet of stream. The stream relocation will eliminate two 90° curves as well as two culverts used to access the adjacent property. The stream relocation will utilize a natural stream design featuring a low flow channel and log structures to provide aquatic habitat and stream stability. The Unnamed Tributary to Cedar Run is classified as a Cold Water Fishery by 25 Pa. Code Chapter 93. This project does not propose to impact any jurisdictional wetlands. This permit also includes 401 Water Quality Certification.

E14-531. Bellefonte Borough, 236 West Lamb Street, Bellefonte, PA 16823-1502. Tallestrand Park Playground Equipment Replacement Project, in Bellefonte Borough, **Centre County**, ACOE Baltimore District (Bellefonte, PA Quadrangle N: 40° 54' 39.1"; W: 77° 46' 54.8").

The Bellefonte Borough Council proposes to use 2009 CDBG funds to replace and maintain the Tallestrand Park existing playground equipment with a modified-challengers playground equipment and picnic table, replacing the current 9-12 inches of sand base with 3 inches of gravel and 9 inches of engineered wood fiber mulch, placing the border timbers and associated crushed stone in the left 100-year floodplain of Spring Creek, Center County, located next to the Train Station. This permit was issued under Section 105.13(e) "Small Projects."

E41-598. Chief Gathering, LLC, 6051 Wallace Road, Suite 210, Wexford, PA 15090. Water Obstruction and Encroachment Joint Permit, Poor Shot Gas Pipeline, in Mifflin and Anthony Townships, **Lycoming County**, ACOE Baltimore District (Salladasburg, PA Quadrangle N: 41° 17' 8"; W: 77° 13' 37").

To construct, operate and maintain 10 miles of 12.75-inch natural gas pipeline within the Larry's Creek and Hoagland Run watersheds (Exceptional Value and High Quality-Cold Water Fisheries). Construction of the natural gas pipeline and associated right-of-ways will require nineteen (19) stream and ten (10) wetland crossings as follows:

<i>Stream Name / Watershed</i>	<i>Crossing Length (ft.) & Wetland Impact (ft.²)</i>	<i>Latitude</i>	<i>Longitude</i>
	~ Streams ~		
First Fork Larry's Creek	0.00	41.227500	77.263611
UT First Fork Larry's Creek	0.00	41.277778	77.263611
UT First Fork Larry's Creek	41.00	41.280833	77.255556
UT First Fork Larry's Creek	30.00	41.280278	77.250833
UT First Fork Larry's Creek	31.00	41.278611	77.246944
UT First Fork Larry's Creek	62.00	41.281111	77.241944
UT First Fork Larry's Creek	65.00	41.280833	77.241667
Second Fork Larry's Creek	0.00	41.285556	77.225278
UT Second Fork Larry's Creek	0.00	41.285833	77.224722
Larry's Creek (braided)	0.00	41.285278	77.213333
Larry's Creek (braided)	0.00	41.285278	77.213333
Larry's Creek (braided)	0.00	41.285278	77.213333
UT Larry's Creek	0.00	41.292100	77.120580
UT to Larry's Creek	0.00	41.296111	77.199167
UT Larry's Creek	38.00	41.297500	77.192500
UT Larry's Creek	75.00	41.299722	77.191944
UT Larry's Creek	77.00	41.308056	77.185278
UT Larry's Creek	33.00	41.312500	77.188056
Stony Gap Run	0.00	41.335833	77.169444
	~ Wetlands ~		
Larry's Creek	0.00	41.277778	77.263889
Larry's Creek	133.87	41.280900	77.152088
Larry's Creek	807.72	41.281000	77.151972
Larry's Creek	2,274.19	41.284800	77.133570
Larry's Creek	0.00	41.285556	77.225000
Larry's Creek	0.00	41.285278	77.213889
Larry's Creek	0.00	41.284722	77.211944
Larry's Creek	0.00	41.292100	77.120535
Larry's Creek	0.00	41.295833	77.198889
Larry's Creek	2,527.87	41.299722	77.191944

All pipeline crossings shall be placed beneath streambeds and wetlands so there will be a minimum of 3 feet of cover between the top of the pipe and the lowest point in the streambed or wetland. Trench plugs or clay dikes shall be used at every waterway and wetland crossing to ensure the existing hydrology is not altered. As proposed, the project will not impact any wetlands or streams. The project will temporarily impact 0.13 acre of jurisdictional wetlands and 452 linear feet of waterway. The project is centered in the Village of Salladasburg. This permit also includes 401 Water Quality Certification.

E60-205. Randy L. Rider, Sr., 2433 White Deer Pike, New Columbia, PA 17856-9254. Rider's Wetland Crossing, in White Deer Township, **Union County**, ACOE Baltimore District (Allenwood, PA Quadrangle N: 41° 2' 31"; W: -76° 55' 32.8").

To construct and maintain: 1) a 14-foot wide earthen residential driveway across 85 linear feet of wetland; 2) twin 14-foot long 4-inch diameter white Schedule 40 plastic pipe under the driveway in the wetland; and 3) a 6-foot long 15-inch diameter metal pipe located next to

Ridge Road. This project proposes to permanently impact 0.025 acre of wetland to access a timber plot and future home site. This permit also includes 401 Water Quality Certification.

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may

be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

Southwest Region: Oil and Gas Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

3/11/2010

ESCGP-1 No.: ESX10-059-0016

Applicant Name: Chesapeake Appalachia, LLC

Contact Person: Tal Oden

Address: P. O. Box 18496

City: Oklahoma City State: OK Zip Code: 73154

County: Greene Township(s): Aleppo

Receiving Stream(s) and Classifications: UNT—Hewitt Run (WWF)—South Fork Dunkard Fork (TSF)—Dunkard Fork (WF)—Wheeler Creek (WWF)—Ohio River, Other

3/15/10

ESCGP-1 No.: ESX10-125-0018

Applicant Name: Chesapeake Energy

Contact Person: Randy Orsburn

Address: 179 Chesapeake Drive, P. O. Box 1300

City: Jane Lew State: WV Zip Code: 26378

County: Washington Township(s): Independence

Receiving Stream(s) and Classifications: UNT to Haynan Creek, Cross Creek, HQ

3/17/10

ESCGP-1 No.: ESX10-125-0019

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): Mt. Pleasant

Receiving Stream(s) and Classifications: UNT to Cherry Run, Other

3/15/10 REV

ESCGP-1 No.: ESX10-125-0002

Applicant Name: Chesapeake Appalachia, LLC

Contact Person: Tal Oden

Address: P. O. Box 18496

City: Oklahoma City State: OK Zip Code: 73154-0496

County: Washington Township(s): Cross Creek

Receiving Stream(s) and Classifications: Cross Creek (North Fork) HQ (WWF) to Cross Creek (WWF) to West Virginia Border to Ohio River, HQ

3/22/10 REV

ESCGP-1 No.: ESX09-125-0064

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): Independence

Receiving Stream(s) and Classifications: UNT to Sugarcamp Run, HQ

3/8/10

ESCGP-1 No.: ESX10-125-0016

Applicant Name: Markwest Liberty Midstream & Resources, LLC

Contact Person: Robert Mchale

Address: 100 Plaza Drive, Suite 102

City: Atlasburg State: PA Zip Code: 15004

County: Washington Township(s): Chartiers

Receiving Stream(s) and Classifications: UNT to Plum Creek, other

3/18/10

ESCGP-1 No.: ESX10-125-0020

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): South Strabane

Receiving Stream(s) and Classifications: UNT to Little Chartiers Creek, HQ

3/31/10

ESCGP-1 No.: ESX10-125-0023

Applicant Name: Chesapeake Appalachia, LLC

Contact Person: Tal Oden

Address: P. O. Box 18496

City: Oklahoma City State: OK Zip Code: 73154

County: Washington Township(s): Nottingham

Receiving Stream(s) and Classifications: UNT (WWF)—Mingo Creek (HQ-TSF), Monongahela River (WWF) HQ

3/25/10

ESCGP-1 No.: ESX10-059-0017

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Greene Township(s): Richhill

Receiving Stream(s) and Classifications: UNT to North Fork Dunkard for and UNT to Clay Lick Run, HQ, other

3/29/10 Maj. Rev

ESCGP-1 No.: ESX10-059-0019

Applicant Name: Eastern American Energy Corporation

Contact Person: Seth Burdette

Address: 1380 Route 286 Highway East, Suite 221

City: Indiana State: PA Zip Code: 15701

County: Greene Township(s): Cumberland

Receiving Stream(s) and Classifications: UNT, Muddy Creek, Monongahela River, other

3/25/10

ESCGP-1 No.: ESX10-125-0022

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): Amwell

Receiving Stream(s) and Classifications: Tenmile Creek, other

3/24/10

ESCGP-1 No.: ESX10-125-0021

Applicant Name: Range Resources—Appalachia, LLC

Applicant Name: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): Mt. Pleasant

Receiving Stream(s) and Classifications: UNT to Raccoon Creek, other

3/26/10
 ESCGP-1 No.: ESX10-059-0018
 Applicant Name: Eastern American Energy Corporation
 Contact Person: Andrew Travis
 Address: 501 56th Street
 City: Charleston State: WV Zip Code: 25304
 County: Greene Township(s): Cumberland
 Receiving Stream(s) and Classifications: Muddy Creek—
 Warm Water Fishery, other

4/1/10 Major Rev.
 ESCGP-1 No.: ESX10-129-0007
 Applicant Name: Williams Production Appalachia, LLC
 Contact Person: David Freudenrich
 Address: 1000 Town Center, Suite 130
 City: Canonsburg State: PA Zip Code: 15317
 County: Westmoreland Township(s): Derry
 Receiving Stream(s) and Classifications: Saxman and
 Union Runs, other WWF (Warm Water Fishes)

4/1/10
 ESCGP-1 No.: ESX10-125-0025
 Applicant Name: Chesapeake Appalachia, LLC
 Contact Person: Tal Oden
 Address: P. O. Box 18496
 City: Oklahoma City State: OK Zip Code: 73154-0496
 County: Washington Township(s): Independence
 Receiving Stream(s) and Classifications: UNT Cross
 Creek (before Avella intake)(HQ-WWF), Cross Creek
 (beyond Avella water intake) (WWF)-WV Border—Ohio
 River, HQ

4/7/10
 ESCGP-1 No.: ESX10-051-0008
 Applicant Name: Atlas Resources, LLC
 Contact Person: Jeremy Hirtz
 Address: 800 Mountain View Drive
 City: Smithfield State: PA Zip Code: 15478
 County: Fayette Township(s): Springhill
 Receiving Stream(s) and Classifications: UNT to
 Monongahela River, other

4/7/10
 ESCGP-1 No.: ESX10-059-0021
 Applicant Name: Rice Drilling B, LLC
 Contact Person: Toby Rice
 Address: 171 Hillpointe Drive, Suite 301
 Co-Applicant Name: Environmental Land Surveying
 and Solutions
 Contact Person: Alicia Carnahan
 Address: 280 Indian Springs Road, Suite 123
 City: Indiana State: PA Zip Code: 15701
 County: Greene Township(s): Center and Wayne
 Receiving Stream(s) and Classifications: Hargus Creek,
 Pursley Run, Turkey Hollow, HQ

4/14/10
 ESCGP-1 No.: ESX10-059-0020
 Applicant Name: Range Resources—Appalachia, LLC
 Contact Person: Carla Suszkowski
 Address: 380 Southpointe Boulevard, Suite 300
 City: Canonsburg State: PA Zip Code: 15317
 County: Greene Township(s): Greene
 Receiving Stream(s) and Classifications: Whiteley Creek,
 other

*Northcentral Region: Oil and Gas Management Pro-
 gram Manager, 208 West Third Street, Williamsport, PA
 17701.*

ESCGP-1 # ESX10-015-0017(01)
 Applicant Name Chesapeake Appalachia, LLC
 Contact Person Eric Haskins
 Address 100 1st Center

City, State, Zip Horseheads, NY 14845
 County Bradford
 Township(s) Wyalusing Township
 Receiving Stream(s) and Classification(s) UNT to Brewer
 Creek
 Secondary—Brewer Creek

ESCGP-1 # ESX10-015-0080
 Applicant Name Chesapeake Appalachia, LLC
 Contact Person Eric Haskins
 Address 100 1st Center
 City, State, Zip Horseheads, NY 14845
 County Bradford
 Township(s) Troy Township
 Receiving Stream(s) and Classification(s) UNT to
 Camfield Run
 Secondary—Camfield Run

ESCGP-1 # ESX10-015-0077
 Applicant Name Chesapeake Appalachia, LLC
 Contact Person Eric Haskins
 Address 100 1st Center
 City, State, Zip Horseheads, NY 14845
 County Bradford
 Township(s) Wyalusing Township
 Receiving Stream(s) and Classification(s) UNT to Brewer
 Creek
 Secondary—Brewer Creek

ESCGP-1 # ESX10-015-0088
 Applicant Name Chesapeake Appalachia, LLC
 Contact Person Eric Haskins
 Address 100 1st Center
 City, State, Zip Horseheads, NY 14845
 County Bradford
 Township(s) Rome Township
 Receiving Stream(s) and Classification(s) UNT
 Secondary—Wysox Creek

ESCGP-1 # ESX10-015-0090
 Applicant Name Chesapeake Appalachia, LLC
 Contact Person Eric Haskins
 Address 100 1st Center
 City, State, Zip Horseheads, NY 14845
 County Bradford
 Township(s) Asylum Township
 Receiving Stream(s) and Classification(s) UNT
 Secondary—Susquehanna River

ESCGP-1 # ESX10-015-0081
 Applicant Name Chesapeake Appalachia, LLC
 Contact Person Eric Haskins
 Address 100 1st Center
 City, State, Zip Horseheads, NY 14845
 County Bradford
 Township(s) Smithfield Township
 Receiving Stream(s) and Classification(s) Tomjack Creek

ESCGP-1 # ESX10-015-0091
 Applicant Name Chesapeake Appalachia, LLC
 Contact Person Eric Haskins
 Address 100 1st Center
 City, State, Zip Horseheads, NY 14845
 County Bradford
 Township(s) Smithfield Township
 Receiving Stream(s) and Classification(s) Browns Creek
 Secondary—Sugar Creek

ESCGP-1 # ESX10-131-0004
 Applicant Name Chesapeake Appalachia, LLC
 Contact Person Eric Haskins
 Address 100 1st Center
 City, State, Zip Horseheads, NY 14845
 County Wyoming

Township(s) Windham Township
Receiving Stream(s) and Classification(s) Roaring Run
Secondary—Susquehanna River

ESCGP-1 # ESX10-131-0002
Applicant Name Chesapeake Appalachia, LLC
Contact Person Eric Haskins
Address 100 1st Center
City, State, Zip Horseheads, NY 14845
County Wyoming
Township(s) Mehoopany Township
Receiving Stream(s) and Classification(s) UNT to North
Branch Mehoopany Creek
Secondary—North Branch Mehoopany Creek

ESCGP-1 # ESX10-131-0003
Applicant Name Chesapeake Appalachia, LLC
Contact Person Eric Haskins
Address 100 1st Center
City, State, Zip Horseheads, NY 14845
County Wyoming
Township(s) Windham Township
Receiving Stream(s) and Classification(s) UNT
Secondary—Little Mehoopany Creek

ESCGP-1 # ESX10-015-0083
Applicant Name Chesapeake Appalachia, LLC
Contact Person Eric Haskins
Address 100 1st Center
City, State, Zip Horseheads, NY 14845
County Bradford
Township(s) Troy Township
Receiving Stream(s) and Classification(s) UNT of Sugar
Run
Secondary—Sugar Run

ESCGP-1 # ESX10-081-0014
Applicant Name Anadarko Marcellus Midstream, LLC
Contact Person Bertha Nefe
Address P. O. Box 1330
City, State, Zip Houston, TX 77251-1330
County Lycoming
Township(s) Pine Township
Receiving Stream(s) and Classification(s) Bonnell Run,
UNT to Bonnell Run, Texas Creek
Secondary—Little Pine Creek

ESCGP-1 # ESX10-117-0077
Applicant Name East Resources, Inc.
Contact Person Jefferson Long
Address 301 Brush Creek Road
City, State, Zip Warrendale, PA 15086
County Tioga
Township(s) Shippen
Receiving Stream(s) and Classification(s) UNT to Marsh
Creek/West Branch Susquehanna River
Secondary—Marsh Creek

ESCGP-1 # ESX10-131-0005
Applicant Name Citrus Energy Corporation
Contact Person Jeffrey Searfoss
Address 2600 Network Boulevard, Suite 400
City, State, Zip Frisco, TX 75034
County Wyoming
Township(s) Mehoopany Township
Receiving Stream(s) and Classification(s) Little
Mehoopany Creek

ESCGP-1 # ESX10-117-0078
Applicant Name Talisman Energy USA, Inc.
Contact Person Tracy Gregory
Address 337 Daniel Zenker Drive
City, State, Zip Horseheads, NY 14845
County Tioga

Township(s) Ward Township
Receiving Stream(s) and Classification(s) UNT to Morris
Run (CWF/MF)

ESCGP-1 # ESX10-015-0095
Applicant Name Talisman Energy USA, Inc.
Contact Person Tracy Gregory
Address 337 Daniel Zenker Drive
City, State, Zip Horseheads, NY 14845
County Bradford
Township(s) Columbia Township
Receiving Stream(s) and Classification(s) UNT to Sugar
Creek (TSF/MF)

ESCGP-1 # ESG10-117-0024
Applicant Name Fortuna Energy, Inc.
Contact Person Eric Potter
Address 337 Daniel Zenker Drive
City, State, Zip Horseheads, NY 14845
County Tioga
Township(s) Ward Township
Receiving Stream(s) and Classification(s) UNT to Tioga
River, UNT to Fall Brook

ESCGP-1 # ESX10-015-0093
Applicant Name Talisman Energy USA, Inc.
Contact Person Eric Potter
Address 337 Daniel Zenker Drive
City, State, Zip Horseheads, NY 14845
County Bradford
Township(s) Wells Township
Receiving Stream(s) and Classification(s) UNT to
Beckwith Creek, UNT to South Creek

ESCGP-1 # ESG10-081-0007
Applicant Name Chief Gathering, LLC
Contact Person Ted Wurfel
Address 6051 Wallace Road Ext.
City, State, Zip Wexford, PA 15090
County Lycoming
Township(s) Penn Township
Receiving Stream(s) and Classification(s) UNT to Beaver
Run

ESCGP-1 # ESX10-115-0011
Applicant Name Stone Energy Corporation
Contact Person Kevin Stiles
Address 6000 Hampton Center, Suite B
City, State, Zip Morgantown, WV 26505
County Susquehanna
Township(s) Ararat Township
Receiving Stream(s) and Classification(s) West Branch
Lackawanna River

ESCGP-1 # ESX10-117-0040
Applicant Name East Resources, Inc.
Contact Person Jefferson Long
Address 301 Brush Creek Road
City, State, Zip Warrendale, PA 15086
County Tioga
Township(s) Delmar Township
Receiving Stream(s) and Classification(s) UNT to Marsh
Creek, UNT to Wilson Creek to Babb Creek/West
Branch
Susquehanna River
Secondary—Babb Creek to West Branch Susquehanna
River

ESCGP-1 # ESX10-117-0081
Applicant Name East Resources, Inc.
Contact Person Jefferson Long
Address 301 Brush Creek Road
City, State, Zip Warrendale, PA 15086
County Tioga

Township(s) Delmar Township
 Receiving Stream(s) and Classification(s) Pine Island Run
 Tributary to Pine Creek
 Secondary—West Branch of Stoney Fork, tributary to
 Stoney Fork, Tributary to Babb Creek

ESCGP-1 # ESX10-117-0079
 Applicant Name East Resources, Inc.
 Contact Person Jefferson Long
 Address 301 Brush Creek Road
 City, State, Zip Warrendale, PA 15086
 County Tioga
 Township(s) Delmar Township
 Receiving Stream(s) and Classification(s) UNT to Wilson
 Creek
 Secondary—Wilson Creek, tributary to Babb
 Creek

ESCGP-1 # ESX10-117-0080
 Applicant Name East Resources, Inc.
 Contact Person Jefferson Long
 Address 301 Brush Creek Road
 City, State, Zip Warrendale, PA 15086
 County Tioga
 Township(s) Osceola Township
 Receiving Stream(s) and Classification(s) North Holden
 Creek/South; Redhouse Run
 Secondary—North; Conwanesque River/South; Holden
 Creek

ESCGP-1 # ESX10-115-0010
 Applicant Name Stone Energy Corporation
 Contact Person Kevin Stiles
 Address 6000 Hampton Center, Suite B
 City, State, Zip Morgantown, WV 26505
 County Susquehanna
 Township(s) Rush Township
 Receiving Stream(s) and Classification(s) Wolf Creek/
 Wyalusing Creek

SPECIAL NOTICES

ADVERTISEMENT FOR PROPOSALS

In accordance with Act 101 and Section 272 of the PA Solid Waste Rules and Regulations (as amended), the County of Luzerne is seeking waste disposal capacity for municipal waste (MSW) for a minimum of five (5) years, with an option to extend said capacity for up to five (5) additional years, for a total of ten (10) years. Luzerne County is hereby soliciting responses to qualify facilities to provide processing/disposal capacity for County-generated MSW, to begin on or after January 2, 2011.

Copies of Luzerne County's Facility Qualification Request (FQR) may be obtained from the Solid Waste Management Department, 2009 Wyoming Avenue, Forty Fort, PA 18704 or by calling (570) 331-7048. All responses must be made on the Submittal Form and in accordance with the Instructions to Respondents provided in the FQR. The respondent must submit the original and three (3) copies to the address listed previously, Attention Elizabeth M. DeNardi by 3 p.m. EDT on May 20, 2010. Qualified facilities will be notified once all applications have been reviewed by the Luzerne County Solid Waste Advisory Committee.

Luzerne County reserves the right to reject any or all responses and to waive any informalities in the solicitation process.

Planning Grant Awards under Section 901 of the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection announces the following grants to counties under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 (P. L. 556, Act 101) Section 901 and Section 208 of the Waste Tire Recycling Act/Small Business and Household Pollution Prevention Act (Act 190 of 1996).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. Grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101 and the availability of moneys in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Mr. Mark Vottero, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472.

JOHN HANGAR,
Secretary

Act 101, Section 901 Planning Grant

<i>Region</i>	<i>County</i>	<i>Applicant</i>	<i>Project Description</i>	<i>Grant Award</i>
Southeast				
Northeast				
Southcentral	Lebanon	Lebanon County	Plan Revision and Study	\$41,340
Northcentral				
Southwest				
Northwest				

Proposed Action on a Request for BOND RELEASE

Bond released under the Solid Waste Management Act, (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a municipal waste facility.

Regional Office: Regional Manager, Waste Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

ID No. 101014: Marine Rigging, Ltd., 408 Hoffman Road, Pittsburgh, PA 15212. The request for release of a bond for a closed construction and demolition waste landfill owned by Marine Rigging at its Reserve Township, **Allegheny County** site was approved by the Regional Office on February 16, 2010.

Southwest Regional Office, Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

CATEGORICAL EXCLUSION

Location: Munhall Municipal Authority, 1809 West Street, Munhall, PA 15120 Munhall Borough, Allegheny County

Description: The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund is intended to be the funding source for this project.

The Authority proposes to repair existing sewers to reduce wet weather flows to ALCOSAN and comply with Department of Environmental Protection (Department) Consent Order and Agreement.

The Department's review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

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

Public Notice

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

Application No. NPDES PA 0119172, Treated Mine Drainage; Shenango, Inc. (200 Neville Road, Pittsburgh, PA 15225). This facility is located in Luzerne Township, Fayette County.

Description of activity: The application is for an amendment of an NPDES permit for an existing discharge of treated mine water.

The receiving stream, Wallace Run, is in the Monongahela River Watershed and classified as WWF. The nearest downstream public water supply intake is for Southwestern PA Water Authority and is located on the Monongahela River, approximately 2.7 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfalls 13T and 10T for a design flow of 0.1 MGD are:

I. Effluent Limitations and Monitoring Requirements

A. Mine Drainage Treatment Facilities

<i>Outfall Numbers</i>	<i>Latitude</i>	<i>Longitude</i>
13T	39° 56' 39"	79° 54' 39"
10T	39° 55' 55"	79° 54' 10"

Based on the hydrologic data and anticipated wastewater characteristics and flows described in the permit application and its supporting documents and/or revisions, the following effluent limitations and monitoring requirements apply to the previously listed outfall numbers.

Discharge Limitations *

<i>Discharge Parameter</i>	<i>Instantaneous Maximum</i>
Total Iron (Fe)	7.0
Total Manganese (Mn)	5.0
Total Aluminum (Al)	1.88
pH	Not less than 6.0 standard units nor greater than 9.0 standard units at all times.
Alkalinity	must exceed acidity at all times.

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

The Wallace Run TMDL, originally approved by USEPA in 2008, has been revised to reflect scenarios based on the addition of the discharge from the NPDES discharge associated with the Shenango permit.

The data and all supporting documentation used to develop the proposed TMDLs are available from the Department. To request a copy of the proposed TMDL, contact:

Jennifer Orr, Water Program Specialist
 TMDL Development Section
 Watershed Protection Division
 Department of Environmental Protection
 P. O. Box 8555
 Harrisburg, PA 17105-8555
 Phone: 717-772-5670, e-mail: jeorr@state.pa.us

The TMDLs can be accessed through the Department web site (<http://www.depweb.state.pa.us>) by clicking on the Department Programs A-Z Link, then the TMDL link. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users) and request that the call be relayed.

Written and e-mail comments will be accepted at the above addresses and must be received by May 25, 2010. Comments will not be accepted by facsimile or voice mail. The Department will consider all comments in developing the final TMDL, which will be submitted to EPA for approval.

[Pa.B. Doc. No. 10-777. Filed for public inspection April 30, 2010, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us> (DEP Keywords: "eLibrary"). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2010.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Draft Technical Guidance—New Guidance

DEP ID: 362-2100-001. Title: Policy for Coordinating National Pollutant Discharge Elimination System (NPDES) permitting in the Monongahela River watershed. Description: The policy has been developed to guide NPDES permitting in the Monongahela River Watershed in the wake of several water quality issues related to total dissolved solids (TDS) and sulfate, which emerged during 2008 and 2009. During seasonal low flow in the river in 2008, TDS and Sulfate concentrations exceeded the numeric water quality criteria at all of the 13 potable water supply intakes from the border of West Virginia to Pittsburgh. This guidance is designed to apply to new dischargers and new sources, any facility expansions, production increases, process modifications or changes in waste streams. This guidance applies only to the pollutants of concern that have been identified as exceeding water quality standards, that is TDS and sulfate. Comments: Interested persons may submit written comments on this draft policy document by May 17, 2010. The Department will accept comments submitted by e-mail, but comments submitted by facsimile will not be accepted. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Ron Furlan, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Division of Planning and Permits, P. O. Box 8774, Harrisburg, PA 17105-8774 or rfurlan@state.pa.us. Contact: Questions regarding the policy document should be directed to Ron Furlan at rfurlan@state.pa.us or (717) 787-8184.

Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

DEP ID: 563-2111-115. Title: Borrow Pits for Oil and Gas Well Development Activities. Description: The Oil and Gas Act allows the removal of borrow material for use in well development activities, under certain circumstances, to proceed without a mining permit. Borrow activities that do not meet the requirements need a noncoal surface mining permit. The purpose of this guidance is to provide direction for determining if a borrow area requires a mining permit. Note that further guidance is under development to address the standards for those borrow pits that do not require a noncoal mining permit. Comments: Written and electronic comments should be submitted to: William S. Allen, Jr., Bureau of Mining and Reclamation, P. O. Box 8461, Harrisburg, PA 17105-8461, or wallen@state.pa.us. Comments submitted by facsimile will not be accepted. Comments must be received by the Department by May 31, 2010. Contact: Questions regarding the draft technical guidance document should be directed to William S. Allen, Jr., at wallen@state.pa.us or (717) 787-5015.

Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-778. Filed for public inspection April 30, 2010, 9:00 a.m.]

Bid Opportunity

BOGM 09-10, Cleaning out and plugging 45 abandoned oil wells, (Commonwealth Forest Investment Associates, c/o Jeffrey Kochel Property), Hamilton Township, McKean County. The principal items of work include cleaning out and plugging 45 abandoned oil wells, estimated to be between 1,500 to 1,905 feet in depth, to Department of Environmental Protection specifications; preparing and restoring well sites and mobilizing and demobilizing plugging equipment. This project issues on April 30, 2010, and bids will be opened on June 3, 2010, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. A prebid conference is planned for this project but a date has not been set. Use the contact information contained in this advertisement to find out more about the prebid. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-779. Filed for public inspection April 30, 2010, 9:00 a.m.]

Bid Opportunity

BOGM 10-1, Cleaning out and plugging one abandoned oil well, (Botanic Garden of Western Pennsylvania, c/o Robert Hedin Property), North Fayette Township, Allegheny County. The principal items of work include cleaning out and plugging one abandoned oil well, estimated to be 2,500 feet in depth, to Department of Environmental Protection specifications, preparing and restoring well site, and mobilizing and demobilizing plugging equipment. This project issues on April 30, 2010, and bids will be opened on June 3, 2010, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. A prebid conference is planned for this project but a date has not been set. Use the contact information contained in this advertisement to find out more about the prebid. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-780. Filed for public inspection April 30, 2010, 9:00 a.m.]

Clean Air Interstate Rule (CAIR); Final 2014 Annual and Ozone Season CAIR Nitrogen Oxides (NOx) Allowance Allocations

In accordance with 25 Pa. Code §§ 145.211(d) and 145.221(d) (relating to timing requirements for CAIR NOx allowance allocations; and timing requirements for CAIR NOx ozone season allowance allocations), the Department of Environmental Protection (Department) is providing notice of the finalization of the 2014 annual and ozone season CAIR NOx allowance allocations. A 15-day public comment period on the proposed allocations was published in the *Pennsylvania Bulletin* at 40 Pa.B. 1594 (March 20, 2010). No comments were received. No changes to the proposed allocations were made.

The Commonwealth's NOx budget for the annual CAIR program contains 99,049 NOx allowances; 97,761 NOx allowances are allocated. The remaining 1,288 NOx allowances (1.3% of the annual CAIR program budget) are set-aside for future allocation in accordance with 25 Pa. Code § 145.212(f)(2) (relating to allocations to qualifying resources and units exempted by section 405(g)(6)(a) of the Clean Air Act). The Commonwealth's NOx budget for the ozone season CAIR program contains 42,171 NOx allowances, all of which are allocated.

For each CAIR unit and qualifying resource receiving a NOx allocation, Tables 1 and 2 that follow, list the following: the facility name, ORIS code, unit ID for each CAIR unit, either the gross loading or steam loading depending on type of unit, county, converted heat input from the base year and control period allowance allocation. Copies of these tables can also be found on the Department's Air Quality web site at www.depweb.state.pa.us (DEP keyword "Air Quality").

Action at the Federal or State level could affect these allocations. Annual and ozone season CAIR NOx allowances do not constitute property rights.

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 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 may 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*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Questions concerning this notice should be directed to Randy Bordner, Chief, Stationary Source Section, Bureau of Air Quality at (717) 772-3921 or to ranbordner@state.pa.us. TDD users may contact the Pennsylvania AT&T Relay Service at (800) 654-5984 to discuss how Department can best accommodate their needs.

Table 1: Final Pennsylvania 2014 Annual CAIR NOx Allowance Allocation Table

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>UNIT ID</i>	<i>GROSS LOAD (Megawatt Hours)</i>	<i>STEAM LOAD (Thousand Lbs. of Steam)</i>	<i>COUNTY</i>	<i>2008 Converted Heat Input (MMBtu)</i>	<i>2014 CAIR NOx Allowance Allocation</i>
AES Beaverc Valley, LLC	10676	32	0	2,471,090	Beaver	2,981,524.23	258
AES Beaver Valley, LLC	10676	33	0	2,802,573	Beaver	3,381,479.18	292
AES Beaver Valley, LLC	10676	34	0	2,476,089	Beaver	2,987,556.44	258
AES Beaver Valley, LLC	10676	35	0	1,391,005	Beaver	1,678,334.17	145
AES Ironwood	55337	1	591,254	0	Lebanon	3,946,617.38	341
AES Ironwood	55337	2	499,005	0	Lebanon	3,330,858.51	288
Allegheny Energy Hunlock Unit 4	56397	4	17,673	0	Luzerne	117,969.81	10
Allegheny Energy Unit 1 and Unit 2	55196	1	18,072	0	Allegheny	120,631.40	10
Allegheny Energy Unit 1 and Unit 2	55196	2	15,803	0	Allegheny	105,485.63	9
Allegheny Energy Unit 8 and Unit 9	55377	8	9,236	0	Fayette	61,650.50	5
Allegheny Energy Unit 8 and Unit 9	55377	9	13,006	0	Fayette	86,817.59	8
Allegheny Energy Units 3, 4 and 5	55710	3	48,550	0	Allegheny	324,073.59	28
Allegheny Energy Units 3, 4 and 5	55710	4	38,971	0	Allegheny	260,131.49	23

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>UNIT ID</i>	<i>GROSS LOAD (Megawatt Hours)</i>	<i>STEAM LOAD (Thousand Lbs. of Steam)</i>	<i>COUNTY</i>	<i>2008 Converted Heat Input (MMBtu)</i>	<i>2014 CAIR NOx Allowance Allocation</i>
Armstrong Energy Ltd. Part	55347	1	3,125	0	Armstrong	20,861.98	2
Armstrong Energy Ltd. Part	55347	2	5,972	0	Armstrong	39,863.10	3
Armstrong Energy Ltd. Part	55347	3	1,258	0	Armstrong	8,397.15	1
Armstrong Energy Ltd. Part	55347	4	8,473	0	Armstrong	56,555.81	5
Armstrong Power Station	3178	1	920,005	0	Armstrong	7,268,041.87	629
Armstrong Power Station	3178	2	647,947	0	Armstrong	5,118,781.22	443
Bethlehem Power Plant	55690	1	253,898	0	Northampton	1,694,769.15	147
Bethlehem Power Plant	55690	2	249,640	0	Northampton	1,666,347.00	144
Bethlehem Power Plant	55690	3	399,390	0	Northampton	2,665,928.25	231
Bethlehem Power Plant	55690	5	216,935	0	Northampton	1,448,041.13	125
Bethlehem Power Plant	55690	6	213,713	0	Northampton	1,426,534.28	123
Bethlehem Power Plant	55690	7	128,670	0	Northampton	858,872.25	74
Bruce Mansfield	6094	1	6,185,704	0	Beaver	48,867,061.60	4,227
Bruce Mansfield	6094	2	6,712,522	0	Beaver	53,028,923.80	4,587
Bruce Mansfield	6094	3	7,296,207	0	Beaver	57,640,035.30	4,986
Brunner Island	3140	1	2,611,280	0	York	20,629,113.34	1,784
Brunner Island	3140	2	2,805,454	0	York	22,163,087.71	1,917
Brunner Island	3140	3	5,095,547	0	York	40,254,817.82	3,482
Brunot Island Power Station	3096	2A	688	0	Allegheny	4,590.13	0
Brunot Island Power Station	3096	2B	812	0	Allegheny	5,421.44	0
Brunot Island Power Station	3096	3	797	0	Allegheny	5,320.38	0
Cambria Cogen	10641	1	0	3,562,317	Cambria	4,298,158.11	372
Cambria Cogen	10641	2	0	3,495,652	Cambria	4,217,722.62	365
Chambersburg Units 12 and 13	55654	12	51,406	0	Franklin	343,134.45	30
Chambersburg Units 12 and 13	55654	13	48,999	0	Franklin	327,065.86	28
Cheswick	8226	1	2,635,207	0	Allegheny	20,818,131.75	1,801
Colver Power Project	10143	AAB01	975,237	0	Cambria	7,704,372.30	666
Conemaugh	3118	1	5,251,098	0	Indiana	41,483,670.96	3,588
Conemaugh	3118	2	6,962,010	0	Indiana	54,999,880.26	4,758
Cromby	3159	1	715,687	0	Chester	5,653,927.30	489
Cromby	3159	2	55,794	0	Chester	372,424.95	32
Croydon Generating Station	8012	11	907	0	Bucks	6,054.23	1

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>UNIT ID</i>	<i>GROSS LOAD (Megawatt Hours)</i>	<i>STEAM LOAD (Thousand Lbs. of Steam)</i>	<i>COUNTY</i>	<i>2008 Converted Heat Input (MMBtu)</i>	<i>2014 CAIR NOx Allowance Allocation</i>
Croydon Generating Station	8012	12	1,201	0	Bucks	8,016.68	1
Croydon Generating Station	8012	21	701	0	Bucks	4,679.18	0
Croydon Generating Station	8012	22	1,119	0	Bucks	7,469.33	1
Croydon Generating Station	8012	31	995	0	Bucks	6,641.63	1
Croydon Generating Station	8012	32	957	0	Bucks	6,387.98	1
Croydon Generating Station	8012	41	995	0	Bucks	6,641.63	1
Croydon Generating Station	8012	42	814	0	Bucks	5,433.45	0
Ebensburg Power Company	10603	31	0	4,906,913	Cambria	5,920,497.22	512
Eddystone Generating Station	3161	1	1,166,212	0	Delaware	9,213,074.80	797
Eddystone Generating Station	3161	2	1,311,068	0	Delaware	10,357,437.20	896
Eddystone Generating Station	3161	3	56,726	0	Delaware	378,646.05	33
Eddystone Generating Station	3161	4	44,473	0	Delaware	296,857.28	26
Elrama	3098	1	169,536	0	Washington	1,339,336.14	116
Elrama	3098	2	273,728	0	Washington	2,162,451.28	187
Elrama	3098	3	252,496	0	Washington	1,994,716.50	173
Elrama	3098	4	608,041	0	Washington	4,803,520.27	416
FPL Energy MH50	50074	1	77,887	0	Delaware	519,896.06	45
FPL Energy Marcus Hook, LP	55801	1	628,054	0	Delaware	4,192,262.85	363
FPL Energy Marcus Hook, LP	55801	2	639,992	0	Delaware	4,271,946.07	370
FPL Energy Marcus Hook, LP	55801	3	589,055	0	Delaware	3,931,944.13	340
Fairless Energy, LLC	55298	1A	1,188,753	0	Bucks	7,934,927.94	686
Fairless Energy, LLC	55298	1B	1,171,860	0	Bucks	7,822,162.70	677
Fairless Energy, LLC	55298	2A	981,527	0	Bucks	6,551,694.93	567
Fairless Energy, LLC	55298	2B	926,390	0	Bucks	6,183,650.51	535
Fairless Hills Generating Station	7701	PHBLR3	0	0	Bucks	0.00	0
Fairless Hills Generating Station	7701	PHBLR4	167,109	0	Bucks	1,115,452.58	96
Fairless Hills Generating Station	7701	PHBLR5	50,980	0	Bucks	340,291.50	29
Fayette Energy Facility	55516	CTG1	215,301	0	Fayette	1,437,137.31	124

NOTICES

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<i>Facility Name</i>	<i>ORIS CODE</i>	<i>UNIT ID</i>	<i>GROSS LOAD (Megawatt Hours)</i>	<i>STEAM LOAD (Thousand Lbs. of Steam)</i>	<i>COUNTY</i>	<i>2008 Converted Heat Input (MMBtu)</i>	<i>2014 CAIR NOx Allowance Allocation</i>
Fayette Energy Facility	55516	CTG2	222,933	0	Fayette	1,488,077.44	129
G F Weaton	50130	34	284,534	0	Beaver	2,247,817.89	194
G F Weaton	50130	35	241,428	0	Beaver	1,907,279.23	165
Gilberton Power Company	10113	31	0	3,054,842	Schuylkill	3,685,857.22	319
Gilberton Power Company	10113	32	0	3,029,979	Schuylkill	3,655,859.18	316
Grays Ferry Cogen Partnership	54785	2	280,926	0	Philadelphia	1,875,180.32	162
Grays Ferry Cogen Partnership	54785	25	0	2,557,723	Philadelphia	3,086,052.38	267
Handsome Lake Energy	55233	EU-1A	4,234	0	Venango	28,261.95	2
Handsome Lake Energy	55233	EU-1B	3,823	0	Venango	25,518.53	2
Handsome Lake Energy	55233	EU-2A	3,493	0	Venango	23,315.78	2
Handsome Lake Energy	55233	EU-2B	3,443	0	Venango	22,982.03	2
Handsome Lake Energy	55233	EU-3A	4,018	0	Venango	26,820.15	2
Handsome Lake Energy	55233	EU-3B	4,018	0	Venango	26,820.15	2
Handsome Lake Energy	55233	EU-4A	3,635	0	Venango	24,263.63	2
Handsome Lake Energy	55233	EU-4B	3,108	0	Venango	20,745.90	2
Handsome Lake Energy	55233	EU-5A	3,918	0	Venango	26,152.65	2
Handsome Lake Energy	55233	EU-5B	3,963	0	Venango	26,453.03	2
Hatfields Ferry Power Station	3179	1	3,839,664	0	Greene	30,333,346.94	2,624
Hatfields Ferry Power Station	3179	2	3,903,596	0	Greene	30,838,406.35	2,668
Hatfields Ferry Power Station	3179	3	3,921,161	0	Greene	30,977,168.90	2,680
Hazleton Generation	10870	TURB2	1,940	0	Luzerne	12,947.83	1
Hazleton Generation	10870	TURB3	912	0	Luzerne	6,090.20	1
Hazleton Generation	10870	TURB4	1,709	0	Luzerne	11,406.57	1
Hazleton Generation	10870	TURBIN	507	0	Luzerne	3,386.49	0
Homer City	3122	1	3,485,805	0	Indiana	27,537,858.71	2,382
Homer City	3122	2	4,231,979	0	Indiana	33,432,630.47	2,892
Homer City	3122	3	4,394,035	0	Indiana	34,712,876.42	3,003
Hunlock Power Station	3176	6	284,963	0	Luzerne	2,251,210.86	195

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>UNIT ID</i>	<i>GROSS LOAD (Megawatt Hours)</i>	<i>STEAM LOAD (Thousand Lbs. of Steam)</i>	<i>COUNTY</i>	<i>2008 Converted Heat Input (MMBtu)</i>	<i>2014 CAIR NOx Allowance Allocation</i>
Hunterstown Combined Cycle	55976	CT101	291,291	0	Adams	1,944,365.89	168
Hunterstown Combined Cycle	55976	CT201	160,880	0	Adams	1,073,875.34	93
Hunterstown Combined Cycle	55976	CT301	294,919	0	Adams	1,968,587.60	170
Keystone	3136	1	7,394,908	0	Armstrong	58,419,769.88	5,053
Keystone	3136	2	7,577,595	0	Armstrong	59,862,998.45	5,178
Liberty Electric Power Plant	55231	1	774,814	0	Delaware	5,171,881.78	447
Liberty Electric Power Plant	55231	2	796,337	0	Delaware	5,315,551.14	460
Lower Mount Bethel Energy	55667	CT01	959,202	0	Northampton	6,402,671.41	554
Lower Mount Bethel Energy	55667	CT02	1,056,027	0	Northampton	7,048,980.69	610
Martins Creek	3148	3	276,252	0	Northampton	1,843,982.37	160
Martins Creek	3148	4	103,718	0	Northampton	692,319.39	60
Mitchell Power Station	3181	1	331	0	Washington	2,211.43	0
Mitchell Power Station	3181	2	0	0	Washington	0.00	0
Mitchell Power Station	3181	3	331	0	Washington	2,211.43	0
Mitchell Power Station	3181	33	1,601,660	0	Washington	12,653,113.21	1,095
Montour	3149	1	4,059,345	0	Montour	32,068,828.19	2,774
Montour	3149	2	5,561,846	0	Montour	43,938,580.16	3,801
Mountain	3111	31	2,578	0	Cumberland	17,208.15	1
Mountain	3111	32	3,420	0	Cumberland	22,828.50	2
Mt. Carmel Cogeneration	10343	SG-101	277,311	0	Northumberland	2,190,753.90	190
New Castle	3138	3	367,964	0	Lawrence	2,906,912.28	251
New Castle	3138	4	362,271	0	Lawrence	2,861,943.67	248
New Castle	3138	5	618,609	0	Lawrence	4,887,007.86	423
North East Cogeneration Plant	54571	1	5,261	0	Erie	35,115.51	3
North East Cogeneration Plant	54571	2	4,588	0	Erie	30,624.77	3
Northampton Generating Plant	50888	NGC01	1,025,515	0	Northampton	8,101,565.34	701
Northeastern Power Company	50039	31	457,143	0	Schuylkill	3,611,427.88	312
Ontelaunee Energy Center	55193	CT1	713,720	0	Berks	4,764,079.40	412
Ontelaunee Energy Center	55193	CT2	788,752	0	Berks	5,264,919.73	455
PEI Power Corporation	50279	2	31,971	0	Lackawanna	213,405.42	18
Panther Creek Energy Facility	50776	1	360,493	0	Carbon	2,847,894.70	246

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>UNIT ID</i>	<i>GROSS LOAD (Megawatt Hours)</i>	<i>STEAM LOAD (Thousand Lbs. of Steam)</i>	<i>COUNTY</i>	<i>2008 Converted Heat Input (MMBtu)</i>	<i>2014 CAIR NOx Allowance Allocation</i>
Panther Creek Energy Facility	50776	2	380,066	0	Carbon	3,002,521.40	260
Piney Creek Power Plant	54144	31	301,932	0	Clarion	2,385,260.19	206
Portland	3113	1	728,041	0	Northampton	5,751,521.06	498
Portland	3113	2	1,551,371	0	Northampton	12,255,830.35	1,060
Portland	3113	5	10,786	0	Northampton	71,995.55	6
Richmond	3168	91	1,318	0	Philadelphia	8,797.65	1
Richmond	3168	92	1,511	0	Philadelphia	10,085.93	1
Schuylkill	3169	1	32,574	0	Philadelphia	217,431.45	19
Scrubgrass Generating Plant	50974	1	396,505	0	Venango	3,132,389.50	271
Scrubgrass Generating Plant	50974	2	380,955	0	Venango	3,009,544.50	260
Seward	3130	1	2,337,558	0	Indiana	18,466,708.20	1,597
Seward	3130	2	1,995,974	0	Indiana	15,768,194.60	1,364
Shawville	3131	1	723,155	0	Clearfield	5,712,923.32	494
Shawville	3131	2	746,494	0	Clearfield	5,897,301.10	510
Shawville	3131	3	1,098,301	0	Clearfield	8,676,579.56	751
Shawville	3131	4	1,155,208	0	Clearfield	9,126,139.80	789
St. Nicholas Cogeneration Project	54634	1	0	6,008,747	Schuylkill	7,249,929.37	627
Sunbury	3152	1A	285,517	0	Snyder	2,255,580.35	195
Sunbury	3152	1B	287,012	0	Snyder	2,267,395.59	196
Sunbury	3152	2A	289,787	0	Snyder	2,289,314.14	198
Sunbury	3152	2B	268,597	0	Snyder	2,121,915.51	184
Sunbury	3152	3	614,705	0	Snyder	4,856,172.66	420
Sunbury	3152	4	765,457	0	Snyder	6,047,111.09	523
Titus	3115	1	441,854	0	Berks	3,490,645.02	302
Titus	3115	2	419,625	0	Berks	3,315,038.92	287
Titus	3115	3	441,047	0	Berks	3,484,272.56	301
Tolna	3116	31	1,026	0	York	6,848.55	1
Tolna	3116	32	1,005	0	York	6,708.38	1
Trigen Energy-Schuylkill	50607	23	0	708,331	Philadelphia	854,645.62	74
Trigen Energy-Schuylkill	50607	24	0	707,310	Philadelphia	853,413.72	74
Trigen Energy-Schuylkill	50607	26	0	889,459	Philadelphia	1,073,187.96	93
Trigen Energy Corporation-Edison St.	880006	1	0	189,455	Philadelphia	228,589.30	20
Trigen Energy Corporation-Edison St.	880006	2	0	99,864	Philadelphia	120,492.16	10
Trigen Energy Corporation-Edison St.	880006	3	0	241,105	Philadelphia	290,908.25	25

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>UNIT ID</i>	<i>GROSS LOAD (Megawatt Hours)</i>	<i>STEAM LOAD (Thousand Lbs. of Steam)</i>	<i>COUNTY</i>	<i>2008 Converted Heat Input (MMBtu)</i>	<i>2014 CAIR NOx Allowance Allocation</i>
Trigen Energy Corporation-Edison St.	880006	4	0	428,601	Philadelphia	517,133.89	45
WPS Westwood Generation, LLC	50611	31	236,002	0	Schuylkill	1,864,418.25	161
Warren	3132	5	1	0	Warren	6.68	0
Wheelabrator - Frackville	50879	GEN1	0	3,082,693	Schuylkill	3,719,461.48	322
					Totals	1,130,179,027	97,761

Table 2: Final Pennsylvania 2014 CAIR NOx Ozone Season Allowance Allocation Table

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>UNIT ID</i>	<i>GROSS LOAD (Megawatt Hours)</i>	<i>STEAM LOAD (Thousand Lbs. of Steam)</i>	<i>COUNTY</i>	<i>2008 Converted Heat Input (MMBtu)</i>	<i>2014 CAIR NOx Ozone Season Allowance Allocation</i>
AES Beaver Valley, LLC	10676	32	0	1,180,924	Beaver	1,424,858.92	126
AES Beaver Valley, LLC	10676	33	0	1,227,466	Beaver	1,481,014.75	131
AES Beaver Valley, LLC	10676	34	0	1,025,689	Beaver	1,237,557.58	109
AES Beaver Valley, LLC	10676	35	0	593,682	Beaver	716,314.14	63
AES Ironwood	55337	1	329,113	0	Lebanon	2,196,829.54	194
AES Ironwood	55337	2	266,330	0	Lebanon	1,777,753.15	157
Allegheny Energy Hunlock Unit 4	56397	4	7,699	0	Luzerne	51,391.49	5
Allegheny Energy Unit 1 and Unit 2	55196	1	6,513	0	Allegheny	43,476.95	4
Allegheny Energy Unit 1 and Unit 2	55196	2	5,238	0	Allegheny	34,960.98	3
Allegheny Energy Unit 8 and Unit 9	55377	8	6,359	0	Fayette	42,447.19	4
Allegheny Energy Unit 8 and Unit 9	55377	9	5,463	0	Fayette	36,468.20	3
Allegheny Energy Units 3, 4 and 5	55710	3	36,309	0	Allegheny	242,361.64	21
Allegheny Energy Units 3, 4 and 5	55710	4	28,091	0	Allegheny	187,507.22	17
Armstrong Energy Ltd. Part	55347	1	2,727	0	Armstrong	18,204.46	2
Armstrong Energy Ltd. Part	55347	2	5,097	0	Armstrong	34,025.01	3
Armstrong Energy Ltd. Part	55347	3	247	0	Armstrong	1,646.79	0
Armstrong Energy Ltd. Part	55347	4	7,365	0	Armstrong	49,163.64	4
Armstrong Power Station	3178	1	431,003	0	Armstrong	3,404,924.65	300
Armstrong Power Station	3178	2	311,565	0	Armstrong	2,461,363.26	217

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>UNIT ID</i>	<i>GROSS LOAD (Megawatt Hours)</i>	<i>STEAM LOAD (Thousand Lbs. of Steam)</i>	<i>COUNTY</i>	<i>2008 Converted Heat Input (MMBtu)</i>	<i>2014 CAIR NOx Ozone Season Allowance Allocation</i>
Bethlehem Power Plant	55690	1	173,881	0	Northampton	1,160,655.68	102
Bethlehem Power Plant	55690	2	172,125	0	Northampton	1,148,934.38	101
Bethlehem Power Plant	55690	3	165,166	0	Northampton	1,102,483.05	97
Bethlehem Power Plant	55690	5	151,493	0	Northampton	1,011,215.78	89
Bethlehem Power Plant	55690	6	149,743	0	Northampton	999,534.53	88
Bethlehem Power Plant	55690	7	144,884	0	Northampton	967,100.70	85
Bruce Mansfield	6094	1	2,246,827	0	Beaver	17,749,933.30	1,566
Bruce Mansfield	6094	2	3,024,454	0	Beaver	23,893,188.58	2,108
Bruce Mansfield	6094	3	3,057,799	0	Beaver	24,156,608.15	2,132
Brunner Island	3140	1	1,013,786	0	York	8,008,907.27	707
Brunner Island	3140	2	1,298,837	0	York	10,260,812.30	905
Brunner Island	3140	3	1,839,236	0	York	14,529,963.29	1,282
Brunot Island Power Station	3096	2A	688	0	Allegheny	4,590.13	0
Brunot Island Power Station	3096	2B	812	0	Allegheny	5,421.44	0
Brunot Island Power Station	3096	3	797	0	Allegheny	5,320.38	0
Cambria Cogen	10641	1	0	1,478,174	Cambria	1,783,509.32	157
Cambria Cogen	10641	2	0	1,441,822	Cambria	1,739,648.36	154
Chambersburg Units 12 and 13	55654	12	29,954	0	Franklin	199,942.28	18
Chambersburg Units 12 and 13	55654	13	27,556	0	Franklin	183,937.77	16
Cheswick	8226	1	915,803	0	Allegheny	7,234,842.59	638
Colver Power Project	10143	AAB01	434,202	0	Cambria	3,430,195.80	303
Conemaugh	3118	1	2,589,279	0	Indiana	20,455,303.63	1,805
Conemaugh	3118	2	2,984,566	0	Indiana	23,578,069.58	2,081
Cromby	3159	1	315,606	0	Chester	2,493,287.40	220
Cromby	3159	2	48,007	0	Chester	320,446.73	28
Croydon Generating Station	8012	11	848	0	Bucks	5,660.40	0
Croydon Generating Station	8012	12	1,149	0	Bucks	7,669.58	1
Croydon Generating Station	8012	21	680	0	Bucks	4,539.00	0
Croydon Generating Station	8012	22	972	0	Bucks	6,488.10	1
Croydon Generating Station	8012	31	975	0	Bucks	6,508.13	1
Croydon Generating Station	8012	32	933	0	Bucks	6,227.78	1

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>UNIT ID</i>	<i>GROSS LOAD (Megawatt Hours)</i>	<i>STEAM LOAD (Thousand Lbs. of Steam)</i>	<i>COUNTY</i>	<i>2008 Converted Heat Input (MMBtu)</i>	<i>2014 CAIR NOx Ozone Season Allowance Allocation</i>
Croydon Generating Station	8012	41	946	0	Bucks	6,314.55	1
Croydon Generating Station	8012	42	787	0	Bucks	5,253.23	0
Ebensburg Power Company	10603	31	0	2,129,834	Cambria	2,569,777.84	227
Eddystone Generating Station	3161	1	641,947	0	Delaware	5,071,381.30	448
Eddystone Generating Station	3161	2	712,879	0	Delaware	5,631,744.10	497
Eddystone Generating Station	3161	3	37,688	0	Delaware	251,567.40	22
Eddystone Generating Station	3161	4	36,783	0	Delaware	245,526.53	22
Elrama	3098	1	39,972	0	Washington	315,776.35	28
Elrama	3098	2	75,755	0	Washington	598,461.42	53
Elrama	3098	3	51,539	0	Washington	407,158.02	36
Elrama	3098	4	147,302	0	Washington	1,163,684.54	103
FPL Energy MH50	50074	1	68,397	0	Delaware	456,550.84	40
FPL Energy Marcus Hook, LP	55801	1	309,032	0	Delaware	2,062,791.07	182
FPL Energy Marcus Hook, LP	55801	2	305,560	0	Delaware	2,039,614.60	180
FPL Energy Marcus Hook, LP	55801	3	277,584	0	Delaware	1,852,872.33	164
Fairless Energy, LLC	55298	1A	498,915	0	Bucks	3,330,256.76	294
Fairless Energy, LLC	55298	1B	493,646	0	Bucks	3,295,087.58	291
Fairless Energy, LLC	55298	2A	507,312	0	Bucks	3,386,309.27	299
Fairless Energy, LLC	55298	2B	485,203	0	Bucks	3,238,729.56	286
Fairless Hills Generating Station	7701	PHBLR3	0	0	Bucks	0.00	0
Fairless Hills Generating Station	7701	PHBLR4	75,609	0	Bucks	504,690.08	45
Fairless Hills Generating Station	7701	PHBLR5	12,938	0	Bucks	86,361.15	8
Fayette Energy Facility	55516	CTG1	102,263	0	Fayette	682,606.13	60
Fayette Energy Facility	55516	CTG2	117,093	0	Fayette	781,594.77	69
G F Weaton	50130	34	140,700	0	Beaver	1,111,533.00	98
G F Weaton	50130	35	127,944	0	Beaver	1,010,757.60	89
Gilberton Power Company	10113	31	0	1,427,598	Schuylkill	1,722,486.59	152
Gilberton Power Company	10113	32	0	1,410,676	Schuylkill	1,702,068.19	150
Grays Ferry Cogen Partnership	54785	2	111,982	0	Philadelphia	747,481.59	66

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>UNIT ID</i>	<i>GROSS LOAD (Megawatt Hours)</i>	<i>STEAM LOAD (Thousand Lbs. of Steam)</i>	<i>COUNTY</i>	<i>2008 Converted Heat Input (MMBtu)</i>	<i>2014 CAIR NOx Ozone Season Allowance Allocation</i>
Grays Ferry Cogen Partnership	54785	25	0	817,811	Philadelphia	986,740.51	87
Handsome Lake Energy	55233	EU-1A	2,544	0	Venango	16,981.20	1
Handsome Lake Energy	55233	EU-1B	2,334	0	Venango	15,579.45	1
Handsome Lake Energy	55233	EU-2A	1,810	0	Venango	12,081.75	1
Handsome Lake Energy	55233	EU-2B	1,777	0	Venango	11,861.48	1
Handsome Lake Energy	55233	EU-3A	2,037	0	Venango	13,596.98	1
Handsome Lake Energy	55233	EU-3B	2,037	0	Venango	13,596.98	1
Handsome Lake Energy	55233	EU-4A	2,575	0	Venango	17,188.13	2
Handsome Lake Energy	55233	EU-4B	2,543	0	Venango	16,974.53	1
Handsome Lake Energy	55233	EU-5A	2,692	0	Venango	17,969.10	2
Handsome Lake Energy	55233	EU-5B	2,688	0	Venango	17,942.40	2
Hatfields Ferry Power Station	3179	1	1,470,702	0	Greene	11,618,543.98	1,025
Hatfields Ferry Power Station	3179	2	1,531,363	0	Greene	12,097,769.91	1,068
Hatfields Ferry Power Station	3179	3	1,538,128	0	Greene	12,151,210.02	1,072
Hazleton Generation	10870	TURB2	1,850	0	Luzerne	12,345.41	1
Hazleton Generation	10870	TURB3	848	0	Luzerne	5,660.40	0
Hazleton Generation	10870	TURB4	1,611	0	Luzerne	10,751.76	1
Hazleton Generation	10870	TURBIN	347	0	Luzerne	2,312.89	0
Homer City	3122	1	1,384,658	0	Indiana	10,938,798.83	965
Homer City	3122	2	2,027,608	0	Indiana	16,018,104.31	1,413
Homer City	3122	3	1,761,160	0	Indiana	13,913,161.24	1,228
Hunlock Power Station	3176	6	128,016	0	Luzerne	1,011,328.69	89
Hunterstown Combined Cycle	55976	CT101	227,009	0	Adams	1,515,285.54	134
Hunterstown Combined Cycle	55976	CT201	130,850	0	Adams	873,426.95	77
Hunterstown Combined Cycle	55976	CT301	233,346	0	Adams	1,557,583.62	137
Keystone	3136	1	3,123,370	0	Armstrong	24,674,620.47	2,177
Keystone	3136	2	3,170,558	0	Armstrong	25,047,410.18	2,210

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>UNIT ID</i>	<i>GROSS LOAD (Megawatt Hours)</i>	<i>STEAM LOAD (Thousand Lbs. of Steam)</i>	<i>COUNTY</i>	<i>2008 Converted Heat Input (MMBtu)</i>	<i>2014 CAIR NOx Ozone Season Allowance Allocation</i>
Liberty Electric Power Plant	55231	1	393,839	0	Delaware	2,628,876.99	232
Liberty Electric Power Plant	55231	2	406,005	0	Delaware	2,710,081.71	239
Lower Mount Bethel Energy	55667	CT01	369,597	0	Northampton	2,467,058.37	218
Lower Mount Bethel Energy	55667	CT02	504,556	0	Northampton	3,367,909.23	297
Martins Creek	3148	3	119,376	0	Northampton	796,835.80	70
Martins Creek	3148	4	52,470	0	Northampton	350,237.38	31
Mitchell Power Station	3181	1	331	0	Washington	2,211.43	0
Mitchell Power Station	3181	2	0	0	Washington	0.00	0
Mitchell Power Station	3181	3	331	0	Washington	2,211.43	0
Mitchell Power Station	3181	33	633,528	0	Washington	5,004,868.51	442
Montour	3149	1	1,316,747	0	Montour	10,402,300.67	918
Montour	3149	2	2,275,535	0	Montour	17,976,724.68	1,586
Mountain	3111	31	1,276	0	Cumberland	8,517.30	1
Mountain	3111	32	1,367	0	Cumberland	9,124.73	1
Mt. Carmel Cogeneration	10343	SG-101	93,522	0	Northumberland	738,821.83	65
New Castle	3138	3	106,478	0	Lawrence	841,176.20	74
New Castle	3138	4	106,997	0	Lawrence	845,276.06	75
New Castle	3138	5	195,659	0	Lawrence	1,545,706.34	136
North East Cogeneration Plant	54571	1	2,532	0	Erie	16,899.43	1
North East Cogeneration Plant	54571	2	2,123	0	Erie	14,170.62	1
Northampton Generating Plant	50888	NGC01	436,713	0	Northampton	3,450,035.78	304
Northeastern Power Company	50039	31	194,301	0	Schuylkill	1,534,979.16	135
Ontelaunee Energy Center	55193	CT1	419,367	0	Berks	2,799,277.66	247
Ontelaunee Energy Center	55193	CT2	420,252	0	Berks	2,805,181.77	248
PEI Power Corporation	50279	2	14,299	0	Lackawanna	95,447.89	8
Panther Creek Energy Facility	50776	1	162,392	0	Carbon	1,282,896.80	113
Panther Creek Energy Facility	50776	2	166,223	0	Carbon	1,313,161.70	116
Piney Creek Power Plant	54144	31	121,295	0	Clarion	958,233.58	85
Portland	3113	1	237,663	0	Northampton	1,877,533.75	166
Portland	3113	2	577,128	0	Northampton	4,559,312.39	402
Portland	3113	5	3,750	0	Northampton	25,031.58	2

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>UNIT ID</i>	<i>GROSS LOAD (Megawatt Hours)</i>	<i>STEAM LOAD (Thousand Lbs. of Steam)</i>	<i>COUNTY</i>	<i>2008 Converted Heat Input (MMBtu)</i>	<i>2014 CAIR NOx Ozone Season Allowance Allocation</i>
Richmond	3168	91	916	0	Philadelphia	6,114.30	1
Richmond	3168	92	1,019	0	Philadelphia	6,801.83	1
Schuylkill	3169	1	10,610	0	Philadelphia	70,821.75	6
Scrubgrass Generating Plant	50974	1	166,915	0	Venango	1,318,628.50	116
Scrubgrass Generating Plant	50974	2	165,353	0	Venango	1,306,288.70	115
Seward	3130	1	1,040,782	0	Indiana	8,222,177.80	726
Seward	3130	2	836,226	0	Indiana	6,606,185.40	583
Shawville	3131	1	293,539	0	Clearfield	2,318,961.02	205
Shawville	3131	2	334,467	0	Clearfield	2,642,291.99	233
Shawville	3131	3	443,022	0	Clearfield	3,499,870.80	309
Shawville	3131	4	466,391	0	Clearfield	3,684,492.69	325
St. Nicholas Cogeneration Project	54634	1	0	2,376,607	Schuylkill	2,867,525.34	253
Sunbury	3152	1A	128,571	0	Snyder	1,015,713.27	90
Sunbury	3152	1B	129,245	0	Snyder	1,021,033.92	90
Sunbury	3152	2A	130,494	0	Snyder	1,030,904.18	91
Sunbury	3152	2B	120,952	0	Snyder	955,522.38	84
Sunbury	3152	3	276,809	0	Snyder	2,186,789.52	193
Sunbury	3152	4	351,913	0	Snyder	2,780,114.52	245
Titus	3115	1	194,199	0	Berks	1,534,173.44	135
Titus	3115	2	196,932	0	Berks	1,555,764.46	137
Titus	3115	3	168,077	0	Berks	1,327,809.64	117
Tolna	3116	31	722	0	York	4,819.35	0
Tolna	3116	32	731	0	York	4,879.43	0
Trigen Energy-Schuylkill	50607	23	0	13,863	Philadelphia	16,726.58	1
Trigen Energy-Schuylkill	50607	24	0	0	Philadelphia	0.00	0
Trigen Energy-Schuylkill	50607	26	0	83,251	Philadelphia	100,447.44	9
Trigen Energy Corporation-Edison St.	880006	1	0	784	Philadelphia	945.95	0
Trigen Energy Corporation-Edison St.	880006	2	0	955	Philadelphia	1,152.27	0
Trigen Energy Corporation-Edison St.	880006	3	0	2,467	Philadelphia	2,976.59	0
Trigen Energy Corporation-Edison St.	880006	4	0	2,679	Philadelphia	3,232.38	0
WPS Westwood Generation, LLC	50611	31	117,434	0	Schuylkill	927,729.31	82

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>UNIT ID</i>	<i>GROSS LOAD (Megawatt Hours)</i>	<i>STEAM LOAD (Thousand Lbs. of Steam)</i>	<i>COUNTY</i>	<i>2008 Converted Heat Input (MMBtu)</i>	<i>2014 CAIR NOx Ozone Season Allowance Allocation</i>
Warren	3132	5	1	0	Warren	6.68	0
Wheelabrator-Frackville	50879	GEN1	0	1,456,389	Schuylkill	1,757,224.18	155
Totals						477,978,704	42,171

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-781. Filed for public inspection April 30, 2010, 9:00 a.m.]

Control Measures under Consideration by the Ozone Transport Commission; Public Comment Period

The Department of Environmental Protection (Department) is seeking comments on control measures under consideration by the Ozone Transport Commission (OTC) for the attainment and maintenance of the ozone national ambient air quality standards (NAAQS). This public comment period is consistent with the requirements of section 7.4 of the Pennsylvania Air Pollution Control Act (35 P. S. § 4007.4) (relating to interstate transport commission), which requires an opportunity for public review and comment on control strategies that will be recommended by the OTC for adoption.

The OTC, a multi-state organization created under sections 176A and 184 of the Federal Clean Air Act, is authorized to develop recommendations for additional control measures to mitigate the transport of ozone and its precursors in the Ozone Transport Region (OTR) established by operation of law. In addition to this Commonwealth, the OTR is comprised of the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, northern Virginia and the District of Columbia.

In March 2008, the United States Environmental Protection Agency (EPA) established primary and secondary ozone national ambient air quality standards (NAAQS) of 0.075 parts per million (ppm) or 75 parts per billion (ppb). In response to litigation, EPA Administrator Lisa Jackson announced that the agency would reconsider the March 2008 ozone NAAQS and adopt a standard more protective of public health and the environment. Notice of the revised primary ozone standard ranging from 0.060 to 0.070 ppm (60 to 70 ppb) was published in the *Federal Register* on January 19, 2010. In addition, EPA also proposed a new cumulative, seasonal "secondary" standard ranging from 7–15 ppm-hours to protect sensitive vegetation and ecosystems. (75 FR 2938) The final ozone standards are expected in August 2010. When EPA establishes a NAAQS, states must submit State Implementation Plan revisions to demonstrate attainment and maintenance of the NAAQS in a timely fashion.

Based on current ozone data, most areas of this Commonwealth will be designated as nonattainment, if EPA adopts a primary ozone standard of 0.060 or 0.065 ppm. During the implementation of the 2010 ozone NAAQS,

this Commonwealth will work cooperatively with the member states of the OTC and other regional organizations to develop cost-effective strategies for attaining the NAAQS and to develop the necessary air quality attainment demonstrations.

The OTC has adopted resolutions setting forth the process and schedules for developing these strategies and attainment demonstrations, including work by mobile, stationary and area source, and modeling committees. The OTC and its member states have held public meetings for stakeholders, most recently on March 16, 2010, on potential control measures. The Department staff has reviewed stakeholder comments submitted to the OTC during the most recent comment period that closed April 6, 2010.

The OTC is planning to consider action in June 2010, by which member states would commit to pursue the following control strategies:

- NOx controls on new natural gas-fired industrial, commercial and institutional boilers, steam generators, process heaters and water heaters;
- NOx controls on oil and natural gas-fired boilers serving electric generating units;
- NOx controls on stationary generators;
- VOC controls on consumer products;
- VOC controls on architectural, industrial and maintenance coatings; and
- VOC controls on large above-ground storage tanks.

Materials describing the potential control measures can be found on the Department's web site at www.depweb.state.pa.us, choose "Air Quality." Additional materials can be found at the OTC web site, www.otcair.org, choose "Meetings."

Comments should be sent by May 28, 2010, to Arleen Shulman, Chief, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468 or ashulman@state.pa.us. The Department will consider and retain all comments, but will not prepare a comment and response document.

Adoption by the OTC of any of these measures is considered a commitment by signatory states to pursue legislative or regulatory action to adopt and implement these measures. Any control measure proposed for promulgation in this Commonwealth would be subject to the Commonwealth's notice and comment rulemaking process

under the Commonwealth Documents Law, Regulatory Review Act and Commonwealth Attorneys Act.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-782. Filed for public inspection April 30, 2010, 9:00 a.m.]

Interstate Pollution Transport Reduction; Final 2010 Ozone Season NOx Emission Limits for Nonelectric Generating Units

The Department of Environmental Protection (Department) is providing notice of the final nonelectric generating unit (non-EGU) 2010 ozone season NOx emission limitations established in accordance with 25 Pa. Code § 145.8(d) (relating to transition to CAIR NOx trading programs).

Notice of a 15-day public comment period on the proposed limits was published at 40 Pa.B. 1594 (March 20, 2010). The public comment period offered the public an opportunity to review the information and data as a way to ensure that the information was correct. One comment was received. No changes to the emission limitations were made.

The commentator commented on its proposed 2010 limit of 0 tons for a particular unit as being a penalty for taking outages during the 2009 ozone season during the recession and believes the limit prevents the commentator from operating the unit in 2010. This is not the case. The Clean Air Interstate Rule (CAIR) transition rule will not prevent the unit's operation. For non-EGUs it sets a threshold at which the unit will need to surrender CAIR NOx Ozone Season allowances if the ozone season State-wide NOx emissions limitation for non-EGUs in 25 Pa. Code § 145.8(d) is exceeded.

If the Statewide emissions limitation is exceeded, the owner and operator of any unit that exceeds its individual allowable emissions established under 25 Pa. Code § 145.8(d) for that ozone season may also use any unused portion of an emission limitation allocated to the other units within the facility and from other facilities under common ownership throughout this Commonwealth to cover any excess NOx emissions.

Furthermore, the commentator suggested the Department allocate a limit for the unit similar to the 2009 limit from the surplus fund given the operator's unique circumstances. The rule does not allow this. As is explained, the 60 tons that will remain of the NOx emissions cap are to be used for accounting adjustments. If the unit did not operate in 2009, no portion of the cap is allocated to the unit for 2010.

Finally, the commentator reiterated its comment of last year suggesting that the Department reconsider the implementation of the non-EGU budget program by including non-EGUs in the CAIR trading program, and revisit the issue during development of EPA's CAIR replacement rule. This comment is beyond the scope of the non-EGU 2010 ozone season NOx emission limitations. The Department addressed the issue in the preamble of Pennsylvania's 2008 CAIR rulemaking.

In this notice, the NOx emissions cap provides 181 tons of NOx emissions for non-EGUs and the other units that need to address their emissions through accounting adjustments, including units that previously participated in the NOx Budget Trading Program; emissions from these units were below the 25-ton exemption threshold. Adjustments were also made for the permanent retirement of NOx allowances due to generation of emission reduction credits. The Department will also use a portion of the 181 tons of the budgeted NOx emissions, if necessary, to address mistakes or miscalculations. This year, the Department is using 121 tons of the 181 tons of NOx emissions for account adjustments, leaving 60 tons available for any additional adjustments at the end of the control period.

As proposed, the Department made accounting adjustments for the following facilities:

Retired Units: Naval Surface Warfare Division Unit 98; Shenango Unit Nos. 6 and 9 (the generation of emission offsets for small non-NOx Budget Trading Program units resulted in a permanent NOx accounting adjustment of 45 tons).

Exempt Units: Each of the following units has a 25-ton NOx permit limit: Armagh Compressor Station (Unit 31301); Entriiken Compressor Station (Unit 31601); and the Naval Surface Warfare Division (Unit 100). The Naval Surface Warfare Division (Unit 99) has a 1-ton NOx permit limit. All of these 25-ton exempt status units account for a total adjustment of 76 tons of NOx emissions.

Units subject to the requirements in 25 Pa. Code § 145.8 are required to meet the monitoring and reporting requirements of the EPA's CAIR, found in 40 CFR Part 96, Subpart HHHH (relating to monitoring and reporting) and maintain general accounts and account representatives under 40 CFR Part 96, Subparts BBBB and FFFF (relating to CAIR designated representative for CAIR NOx ozone season sources; and CAIR NOx ozone season allowance tracking system). The "Non-EGU 2010 Ozone Season NOx Limits" table following lists the following: facility name, ORIS code, unit ID for each non-EGU unit, operating year, heat input for 2008 ozone season, calculated 2010 rate and 2010 ozone season limit. A copy of this table can also be found at the Department's Air Quality web site at www.depweb.state.pa.us (DEP keyword "Air Quality").

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 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 may 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*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create

any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once.

Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Questions concerning this notice should be directed to Randy Bordner, Chief, Stationary Source Section, Bureau of Air Quality to ranbordner@state.pa.us or at (717) 772-3921. TDD users may contact the Pennsylvania AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

Table 1: Final Non-EGU 2010 Ozone Season NOx Emission Limits

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>Unit ID</i>	<i>Op Year</i>	<i>NOx Rate lb/MMBtu</i>	<i>NOx Mass Tons</i>	<i>Heat Input MMBtu</i>	<i>2010 Rate</i>	<i>2010 OS Limit</i>
Armagh Compressor Station	880071	31301	2009	25-Ton Exemption (Limit 25-tons)	0.0	0	0.261	0
Bernville Station	880049	32001	2009	0.000	0.0	0	0.261	0
ConocoPhillips Co., Trainer Refinery	880025	32	2009	Retired	0.0	0	0.261	0
ConocoPhillips Co., Trainer Refinery	880025	33	2009	0.217	75.3	691,401	0.261	90
ConocoPhillips Co., Trainer Refinery	880025	34	2009	0.005	1.6	534,619	0.261	70
ConocoPhillips Co., Trainer Refinery	880025	35	2009	0.006	1.9	573,745	0.261	75
Domtar Paper Company, LLC	54638	40	2009	0.342	166.7	977,790	0.261	128
Domtar Paper Company, LLC	54638	41	2009	0.344	163.1	949,688	0.261	124
Entriiken Compressor Station	880072	31601	2009	25-Ton Exemption (Limit 25-tons)	0.0	0	0.261	0
FPL Energy Marcus Hook, LP	55801	AB01	2009	0.022	6.0	538,275	0.261	70
FPL Energy Marcus Hook, LP	55801	AB02	2009	0.033	10.9	638,296	0.261	83
FPL Energy Marcus Hook, LP	55801	AB03	2009	0.032	7.3	463,572	0.261	61
FPL Energy Marcus Hook, LP	55801	AB04	2009	0.033	10.9	656,585	0.261	86
Kimberly-Clark Tissue Company	50410	34	2009	2.00	0.0	10	0.261	0
Kimberly-Clark Tissue Company	50410	35	2009	0.060	100.5	3,673,949	0.261	480
Merck & Company—West Point	52149	39	2009	0.095	17.7	377,183	0.261	49
Merck & Company—West Point	52149	40	2009	0.025	9.1	742,715	0.261	97
P H Glatfelter Company	50397	34	2009	0.470	281.6	1,198,104	0.261	157

<i>Facility Name</i>	<i>ORIS CODE</i>	<i>Unit ID</i>	<i>Op Year</i>	<i>NOx Rate lb/MMBtu</i>	<i>NOx Mass Tons</i>	<i>Heat Input MMBtu</i>	<i>2010 Rate</i>	<i>2010 OS Limit</i>
P H Glatfelter Company	50397	35	2009	0.522	268.6	1,021,643	0.261	133
P H Glatfelter Company	50397	36	2009	0.225	202.8	1,809,070	0.261	236
Philadelphia Refinery	52106	150137	2009	0.119	46.8	784,574	0.261	103
Philadelphia Refinery	52106	150138	2009	0.147	35.8	491,960	0.261	64
Philadelphia Refinery	52106	150139	2009	0.119	44.3	741,340	0.261	97
Philadelphia Refinery	52106	150140	2009	0.141	87.1	1,182,635	0.261	155
Procter & Gamble Paper Products	50463	328001	2009	0.161	129.4	1,620,502	0.261	212
Shenango Incorporated	54532	6	2009	Retired	0.0	0	0.261	0
Shenango Incorporated	54532	9	2009	Retired	0.0	0	0.261	0
Shermans Dale Station	880050	31801	2009	0.000	0.0	0	0.261	0
Sunoco Chemicals Frankford Plant	880007	52	2009	0.054	15.0	568,054	0.261	74
US Steel (Clariton Coke)	50729	CLBLR1	2009	0.136	89.8	1,305,944	0.261	171
US Steel (Clariton Coke)	50729	CLBLR2	2009	0.000	0.0	0	0.261	0
US Steel (Edgar Thompson)	50732	ETBLR1	2009	0.027	18.2	1,359,123	0.261	178
US Steel (Edgar Thompson)	50732	ETBLR2	2009	0.028	19.7	1,426,418	0.261	186
US Steel (Edgar Thompson)	50732	ETBLR3	2009	0.032	22.7	1,445,930	0.261	189
Naval Surface Warfare Division	880009	98	2009	Retired	0.0	0	0.261	0
Naval Surface Warfare Division	880009	99	2009	25-Ton Exemption (Limit 1-ton)	0.0	0	0.261	0
Naval Surface Warfare Division	880009	100	2009	25-Ton Exemption (Limit 25-tons)	0.0	0	0.261	0
United Refining	880099	4	2009	0.173	46.7	539,884	0.261	71
				Totals	1,879.7	26,313,010	0.261	3,438

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-783. Filed for public inspection April 30, 2010, 9:00 a.m.]

Proposed General Permit for Bluestone (5 acres or Less) Mining; Proposed General Permit BMR-GP-105

In compliance with the provisions of section 26(b) of the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. § 3326(b)); section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20) and §§ 77.801—

77.807 (25 Pa. Code Chapter 77) Noncoal Regulations, the Department of Environmental Protection (Department) by this notice proposes to issue a general permit for bluestone (5 acres or less) mining (BMR-GP-105).

This general permit is proposed for use by eligible persons for the extraction of noncoal minerals, specifically bluestone and other fine grained sandstone predominantly found in the northeast and northern tier counties

of Pennsylvania on a mining area that is 5 acres or less. The area to be affected by bluestone extraction under this general permit must be 5 acres or less. Including support area, the size of the general permit must not exceed 10 acres. The maximum highwall height allowed under this general permit is 100 feet.

Comments concerning the general permit should be directed to James Charowsky, Bureau of Mining and Reclamation, Rachel Carson State Office Building, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-5015 or at ra-epbmrcomments@state.pa.us. Comments received by facsimile will not be accepted. Public comments must be received by the Department by June 29, 2010.

Persons interested in obtaining more information or a paper copy of the proposed General Permit BMR-GP-105 should contact the Bureau of Mining and Reclamation at (717) 787-5015. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984. The General Permit BMR-GP-105 document is also accessible on the Department's web site at www.depweb.state.pa.us ("Public Participate"; then "Public Participate Center"; then "Proposals Currently Open for Comment").

The Department will provide public notice upon finalization of General Permit BMR-GP-105.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 10-784. Filed for public inspection April 30, 2010, 9:00 a.m.]

DEPARTMENT OF HEALTH

Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee; Public Meetings

The Statewide HIV Community Prevention Planning Committee, established by the Department of Health (Department) under sections 301(a) and 317(b) of the Public Health Service Act (42 U.S.C. §§ 241(a) and 247(b)), will hold a public meeting on Wednesday, May 19, 2010, and Thursday, May 20, 2010, from 9 a.m. until 4 p.m. at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050.

For additional information, contact Kenneth McGarvey, Department of Health, Bureau of Communicable Diseases, 625 Forster Street, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who wish to attend the meeting, and require an auxiliary aid, service or other accommodation to do so, should also contact Kenneth McGarvey at the previously listed number, or at V/TT (717) 783-6514 for speech and/or hearing impaired persons, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

The Department reserves the right to cancel this meeting without prior notice.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 10-785. Filed for public inspection April 30, 2010, 9:00 a.m.]

Integrated Human Immunodeficiency Virus (HIV) Planning Council; Public Meetings

The Statewide Integrated HIV Planning Council, established by the Department of Health (Department) under sections 301(a) and 317(b) of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247(b)), will hold a public meeting on Tuesday, May 18, 2010, at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050, from 9 a.m. to 2 p.m.

For additional information contact Joseph Pease, Department of Health, Bureau of Communicable Diseases, Division of HIV/AIDS, 625 Forster Street, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, should also contact Joseph Pease at the previously listed number, or at V/TT (717) 783-6514 for speech and/or hearing impaired persons, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

The Department reserves the right to cancel this meeting without prior notice.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 10-786. Filed for public inspection April 30, 2010, 9:00 a.m.]

Long-Term Care Nursing Facilities; Request for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.10(c) (relating to doors).

Peter Becker Community
800 Maple Avenue
Harleysville, PA 19438
DSI No. 160602

This request is on file with the Department of Health. Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who desire to comment in an alternative format (for example, large print, audiotape, Braille), should contact the Division of Nursing Care Facilities at the address listed previously, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 10-787. Filed for public inspection April 30, 2010, 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 either one of these contractors has an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Ed Williams, d/b/a Williams Caulking Company	310 Robin Hood Road Dillsburg, PA 17019	4/15/2010

SANDI VITO,
Secretary

[Pa.B. Doc. No. 10-788. Filed for public inspection April 30, 2010, 9:00 a.m.]

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

HARRIET DICHTER,
Acting Secretary

Fiscal Note: 14-NOT-637. (1) General Fund:

(2) Implementing Year 2009-10 is	\$9.712 M
(3) 1st Succeeding Year 2010-11 is	\$14.508 M
2nd Succeeding Year 2011-12 is	\$14.508 M
3rd Succeeding Year 2012-13 is	\$14.508 M
4th Succeeding Year 2013-14 is	\$14.508 M
5th Succeeding Year 2014-15 is	\$14.508 M
(4) 2008-09 Program—	\$426.822 M
2007-08 Program—	\$468.589 M
2006-07 Program—	\$513.020 M

(7) MA-Inpatient; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 10-789. Filed for public inspection April 30, 2010, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Changes to an Additional Class of Disproportionate Share Payments

The purpose of this notice is to announce the Department of Public Welfare's (Department) intent to increase the allocation of funding for Fiscal Year (FY) 2009-2010 for disproportionate share hospital (DSH) payments to certain qualifying Medical Assistance (MA) enrolled hospitals that advance the Department's goal of enhancing access to multiple types of medical care in economically distressed areas of this Commonwealth. There will be no change in the qualifying criteria or payment methodology for this additional class of DSH payments.

In making these payments, the Department will ensure that no acute care general hospital will receive any DSH payment that is in excess of its hospital specific DSH upper payment limit and the Commonwealth will not exceed its aggregate annual DSH allotment.

Fiscal Impact

The FY 2009-2010 fiscal impact, as a result of this increase in the allocation for the additional class of DSH payments is \$21.491 million (\$9.712 million in State Funds). In FY 2010-2011, the allocation is anticipated to increase by \$32.705 million (\$14.508 million in State Funds) due to the annualization of the hospital assessment.

Public Comment

Interested persons are invited to submit written comments regarding this notice to Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

DEPARTMENT OF REVENUE

Pennsylvania Millionaire Raffle X

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 874.4 (relating to notice of raffle lottery game rules), the Secretary of Revenue hereby provides public notice of the rules for the following raffle lottery game:

1. *Name:* The name of the raffle game is Pennsylvania Millionaire Raffle X.

2. *Price:* The price of a Pennsylvania Millionaire Raffle X lottery game ticket is \$20.

3. *Ticket Sales And Drawing Date:* Pennsylvania Millionaire Raffle X lottery game ticket sales will commence on or after May 14, 2010, and will continue until all 500,000 tickets have been sold, or 5 p.m. on July 10, 2010, whichever occurs earlier.

4. *Ticket Characteristics:* Each Pennsylvania Millionaire Raffle X lottery game ticket will contain one unique eight-digit number between 00000001 and 00500000, for a total of 500,000 tickets.

5. *Prizes:* The prizes that can be won in this game are \$100, \$1,000, \$100,000 and \$1,000,000. A player may only win one time on each ticket or chance.

6. *Maximum Number of Tickets Printed and Sold for the Game:* There will be no more than 500,000 tickets printed and sold for the Pennsylvania Millionaire Raffle X lottery game. The chances will be sequentially issued on a Statewide basis from the range of individual unique numbers representing the chances available for the game.

7. *Conduct of Drawing:* The results of the Pennsylvania Millionaire Raffle X will be televised on July 10, 2010, at or about 7:00 p.m. The drawing will be conducted with the aid of an electronic device. Six-thousand (6,000) unique eight-digit numbers will be drawn, between 00000001 and 00500000. The first four unique eight-digit numbers drawn will be the first-prize-tier winning numbers. The fifth through eighth unique eight-digit numbers drawn will be the second-prize-tier winning numbers. The ninth through 108th unique eight-digit numbers drawn will be the third-prize-tier winning numbers. The 109th through 6,000th unique eight-digit numbers drawn will be the fourth-prize-tier winning numbers.

8. *Determination of Prize Winners:*

(a) Holders of tickets upon which the unique eight-digit number matches exactly one of the first-prize-tier num-

bers selected by the Lottery shall be entitled to a prize of \$1,000,000.

(b) Holders of tickets upon which the unique eight-digit number matches exactly one of the second-prize-tier numbers selected by the Lottery shall be entitled to a prize of \$100,000.

(c) Holders of tickets upon which the unique eight-digit number matches exactly one of the third-prize-tier numbers selected by the Lottery shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which the unique eight-digit number matches exactly one of the fourth-prize-tier numbers selected by the Lottery shall be entitled to a prize of \$100.

9. *Number and Description of Prizes and Approximate Odds:* The Pennsylvania Millionaire Raffle X prizes and determination winners are as follows:

Ticket Matching Exactly the Unique Eight-digit Number Drawn:

First-Prize-Tier
Second-Prize-Tier
Third-Prize-Tier
Fourth-Prize-Tier

Win Prize Of:
\$1,000,000
\$100,000
\$1,000
\$100

*Maximum Odds
Of Winning
Are 1 In:*
125,000
125,000
5,000
85

*Number Of
Winners*
4
4
100
5,892

All Pennsylvania Millionaire Raffle X lottery game prize payments, including first-prize-tier prizes, will be made as one-time lump-sum cash payments.

10. *Consumer Promotional Programs:* The Lottery may conduct promotional activities to promote the sale of Pennsylvania Millionaire Raffle X tickets, including offering tickets at a discounted price. Details of any such offering will be disseminated through media used to advertise or promote Millionaire Raffle X or through normal communications methods.

11. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Millionaire Raffle X lottery game tickets. The conduct of the Program will be governed by 61 Pa. Code § 811.41 (relating to promotional prizes).

12. *Unclaimed Prize Money:* Unclaimed prize money on winning raffle lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto for 1 year from the announced close of the raffle lottery game. If no claim is made within 1 year of the announced close of the raffle lottery game conducted by the State Lottery, the right of a ticket holder to claim the prize represented by that ticket, if any, expires and the prize money will be paid into the State Lottery Fund and used for purposes otherwise provided for by statute.

13. *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.

C. DANIEL HASSELL,
Secretary

[Pa.B. Doc. No. 10-790. Filed for public inspection April 30, 2010, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Medical Advisory Board Meeting

The Transportation Medical Advisory Board (Board) will meet on Friday, May 14, 2010, at 10 a.m. and is open to the public at the Riverfront Office Center, Transportation University, 1101 South Front Street, Harrisburg, PA. Chairperson Janet L. Dolan will preside.

Members of the public interested in addressing the Board with a concern relating to medical regulations must contact Chris Miller at (717) 783-4534 by Friday, May 7, 2010. These concerns will be discussed during "Items from the Floor" on the Agenda, which will open at 1:30 p.m.

The meeting location is accessible to persons with disabilities. Persons with special needs or requiring special aids are also requested to contact Chris Miller at (717) 783-4534 prior to the meeting so that disability needs may be accommodated.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 10-791. Filed for public inspection April 30, 2010, 9:00 a.m.]

Meetings Scheduled

Aviation Advisory Committee

The Aviation Advisory Committee (AAC) will hold a meeting on Tuesday, May 4, 2010, from 11 a.m. to 2 p.m. in Conference Room 8N1 on the 8th Floor of the Commonwealth Keystone Building, Harrisburg, PA. For more information, contact Patrice Bratcher, Executive Secretary of AAC at (717) 783-3026 or pbratcher@state.pa.us.

State Transportation Commission

The State Transportation Commission (STC) will hold a meeting on Thursday, May 13, 2010, from 10 a.m. to 12 p.m. in Altoona, PA. For more information, contact Nolan Ritchie, Executive Secretary of STC at (717) 787-2913 or nritchie@state.pa.us.

Motor Carrier Safety Advisory Committee

The Motor Carrier Safety Advisory Committee (MCAC) will hold a meeting on Thursday, May 20, 2010, from 12:30 p.m. to 3 p.m. at the Turnpike Commission Building, Harrisburg, PA. For more information, contact Nicole Cristini, Executive Secretary of MCAC at (717) 772-2511 or ncristini@state.pa.us.

Pedalcycle and Pedestrian Advisory Committee

The Pedalcycle and Pedestrian Advisory Committee will hold a meeting on Thursday, May 27, 2010, from 1 p.m. to 3 p.m. in Conference Room 125C of the Commonwealth Keystone Building, Harrisburg, PA. For more information, contact Brian Sanders, Bicycle and Pedestrian Engineer at (717) 783-6193 or bsanders@state.pa.us.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 10-792. Filed for public inspection April 30, 2010, 9:00 a.m.]

**INDEPENDENT
REGULATORY REVIEW
COMMISSION**

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 645.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The

final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
7-449	Environmental Quality Board Large Appliance and Metal Furniture Surface Coating Processes 40 Pa.B. 420 (January 16, 2010)	3/22/10	4/21/10

**Environmental Quality Board
Regulation #7-449 (IRRC #2813)
Large Appliance and Metal Furniture Surface
Coating Processes
April 21, 2010**

We submit for your consideration the following comments on the proposed rulemaking published in the January 16, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Environmental Quality Board to respond to all comments received from us or any other source.

Section 129.52a. Control of VOC emissions from large appliance and metal furniture surface coating processes.—Clarity.

Subsections (d) and (e) require the coating operation to maintain certain records. However, they are unclear as to the format in which these records must be maintained. Also, will requests for submission of records by the Department under subsection (e) be made orally or in writing? These items should be clarified in the final-form regulation.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 10-793. Filed for public inspection April 30, 2010, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are rescheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, Harrisburg, PA at 10 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or a copy can be obtained on the web site, www.irrc.state.pa.us.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
16A-5722	State Board of Veterinary Medicine Responsibility to Clients and Patients	4/19/10	6/3/10
16A-5133	State Board of Nursing Clinical Nurse Specialists	4/19/10	6/3/10
16A-7015	State Board of Certified Real Estate Appraisers Appraiser Trainees; Initial and Continuing /education; Supervised Experience; Practice Standards	4/19/10	6/3/10

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Tolled</i>	<i>Resubmitted</i>	<i>Public Meeting</i>
57-251	Pennsylvania Public Utility Commission Provisions of Bundled Service Package Plans At a Single Monthly Rate by Local Exchange Carriers	2/18/10	3/19/10	4/16/10	5/13/10
54-60	Pennsylvania Liquor Control Board Responsible Alcohol Management Program	2/25/10	3/31/10	4/20/10	5/13/10

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 10-794. Filed for public inspection April 30, 2010, 9:00 a.m.]

INSURANCE DEPARTMENT

Re: MetLife Insurance Company of Connecticut; Rate Increase Filing for LTC Forms; Rate Filing

MetLife Insurance Company of Connecticut is requesting approval to increase the premium 30% on Long-Term Care policy form H-LTC3JFO26. A total of 137 policyholders in this Commonwealth will be affected by this rate adjustment.

Unless formal administrative action is taken prior to July 15, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.insurance.pa.gov. On the "At a Glance" tab, click on the link "Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-795. Filed for public inspection April 30, 2010, 9:00 a.m.]

Re: MetLife Insurance Company of Connecticut; Rate Increase Filing for LTC Forms; Rate Filing

MetLife Insurance Company of Connecticut is requesting approval to increase the premium 39% on Long-Term Care policy form H-LTC3JFQ7. A total of 113 policyholders in this Commonwealth will be affected by this rate adjustment.

Unless formal administrative action is taken prior to July 15, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.insurance.pa.gov. On the "At a Glance" tab, click on the link "Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation

and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-796. Filed for public inspection April 30, 2010, 9:00 a.m.]

Re: MetLife Insurance Company of Connecticut; Rate Increase Filing for LTC Forms; Rate Filing

MetLife Insurance Company of Connecticut is requesting approval to increase the premium 39% on Long-Term Care policy forms H-LTC3JP and H-LTC3JP27. A total of 1,115 policyholders in this Commonwealth will be affected by this rate adjustment.

Unless formal administrative action is taken prior to July 15, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.insurance.pa.gov. On the "At a Glance" tab, click on the link "Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-797. Filed for public inspection April 30, 2010, 9:00 a.m.]

Re: MetLife Insurance Company of Connecticut; Rate Increase Filing for LTC Forms; Rate Filing

MetLife Insurance Company of Connecticut is requesting approval to increase the premium 30% on Long-Term Care policy form H-LTC3JQ3. A total of 567 policyholders in this Commonwealth will be affected by this rate adjustment.

Unless formal administrative action is taken prior to July 15, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.insurance.pa.gov. On the "At a Glance" tab, click on the link "Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Lavery, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlavery@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-798. Filed for public inspection April 30, 2010, 9:00 a.m.]

**Re: MetLife Insurance Company of Connecticut;
Rate Increase Filing for LTC Forms; Rate Filing**

MetLife Insurance Company of Connecticut is requesting approval to increase the premium 30% on Long-Term Care policy form H-LTC3J-2. A total of 77 policyholders in this Commonwealth will be affected by this rate adjustment.

Unless formal administrative action is taken prior to July 15, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.insurance.pa.gov. On the "At a Glance" tab, click on the link "Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Lavery, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlavery@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-799. Filed for public inspection April 30, 2010, 9:00 a.m.]

**Re: MetLife Insurance Company of Connecticut;
Rate Increase Filing for LTC Forms; Rate Filing**

MetLife Insurance Company of Connecticut is requesting approval to increase the premium 30% on Long-Term Care policy form H-LTC2J-5. A total of 777 policyholders in this Commonwealth will be affected by this rate adjustment.

Unless formal administrative action is taken prior to July 15, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.insurance.pa.gov. On the "At a Glance" tab, click on the link "Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Lavery, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlavery@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-800. Filed for public inspection April 30, 2010, 9:00 a.m.]

**Re: MetLife Insurance Company of Connecticut;
Rate Increase Filing for LTC Forms; Rate Filing**

MetLife Insurance Company of Connecticut is requesting approval to increase the premium 30% on Long-Term Care policy form H-LTC4JFQ15. A total of 44 policyholders in this Commonwealth will be affected by this rate adjustment.

Unless formal administrative action is taken prior to July 15, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.insurance.pa.gov. On the "At a Glance" tab, click on the link "Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Lavery, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlavery@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-801. Filed for public inspection April 30, 2010, 9:00 a.m.]

**Re: MetLife Insurance Company of Connecticut;
Rate Increase Filing for LTC Forms; Rate Filing**

MetLife Insurance Company of Connecticut is requesting approval to increase the premium 30% on Long-Term Care policy form H-LTC4JQ7. A total of 1,041 policyholders in this Commonwealth will be affected by this rate adjustment.

Unless formal administrative action is taken prior to July 15, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.insurance.pa.gov. On the "At a Glance" tab, click on the link "Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Lavery, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlavery@state.pa.us within 30

days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-802. Filed for public inspection April 30, 2010, 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 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 office in 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 Bureau of Consumer Services, Philadelphia Regional Office, Fairmont Hearing Room, 801 Market Street, Philadelphia, PA 19107.

Appeal of Ronald J. and Lisa M. Baker; file no. 09-215-78644; Harleysville Insurance Company of New Jersey; Doc. No. PH09-12-026; June 10, 2010, 10 a.m.

Appeal of Patricia A. Fusco and Richard Venezia; file no. 10-214-82067; State Farm Mutual Automobile Insurance Company; Doc. No. PH10-02-019; June 11, 2010, 9 a.m.

Appeal of Monique Richardson; file no. 09-216-81039; USAA Casualty Insurance Company; Doc. No. PH10-01-020; June 10, 2010, 1 p.m.

Appeal of Eli and Barbara Rubinstein; file no. 10-216-83066; Erie Insurance Company; Doc. No. PH10-03-018; June 10, 2010, 2 p.m.

Appeal of Rochelle Smith; file no. 09-214-80013; Infinity Indemnity Insurance Company; Doc. No. PH10-01-004; June 10, 2010, 3 p.m.

Appeal of Rodney Washington; file no. 10-214-84027; Response Worldwide Insurance Company; Doc. No. PH10-04-005; June 11, 2010, 10 a.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) 705-4194.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-803. Filed for public inspection April 30, 2010, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insured has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with his company's termination of the insured's policies. The administrative hearing will be held in the Insurance Department's regional office in Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Bureau of Consumer Services, Philadelphia Regional Office, Fairmont Hearing Room, 801 Market Street, Philadelphia, PA 19107.

Appeal of Jon McNichol; file no. 10-216-82338; Trustgard Insurance Company; doc. no. PH10-03-009; June 10, 2010, 11 a.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending.

Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require

an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-4194.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 10-804. Filed for public inspection April 30, 2010, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Order

Public Meeting held
April 15, 2010

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

*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, April 9, 2008 and April 16, 2009. 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 11, 2010, 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 fuel¹; (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.²

Moves of **40 miles or less** will be divided into 4 categories according to *average mileage*: 5 mile average

¹ 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.

² 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.

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 follows³:

Origin of move to destination 8 miles	= 5 miles average
Terminal factor	= 40 miles
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 × .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 × .682 =
	\$32.75

On February 11, 2010, 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 2009 to December 2009 was \$2.60 per gallon.

Additional support for an extension can be found in the March 9, 2010, 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

³ All fuel surcharges shall be calculated and provided to the customer as part of the Estimate of Charges.

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, 2010.

2. The Extended Fuel Cost Recovery Surcharge shall be in effect for 1 year to April 18, 2011, 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.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 10-805. Filed for public inspection April 30, 2010, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by May 17, 2010. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.

A-2010-2170240. Robert F. Long, d/b/a Long's Van Service (2172 Lower Road North, Shamokin, PA 17872) for the right to begin to transport, as a common carrier, by motor vehicle, persons whose personal convictions prevent them from owning or operating motor vehicles, in paratransit service, from points in the Counties of Northumberland, Montour and Dauphin, to points in Pennsylvania.

A-2010-2170250. Big City Limousine Service, LLC (3341 Sherwood Road, Easton, PA 18045-2021) to transport persons in limousine service, from points in the Counties of Northampton and Lehigh to points in Pennsylvania, and return.

A-2010-2170802. Steven Michael Kelchen (3086 Lincoln Highway, Paradise, Lancaster County, PA 17562)—persons, in paratransit service, whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

Application of the following for approval to begin operating as contract carriers for transportation of persons as described under the application.

A-2010-2168192. Citizens Acting Together Can Help, Inc. (1409 Lombard Street, Philadelphia, PA 19146)—a corporation of the Commonwealth—for LogistiCare Solutions, LLC, under its Medical Assistance Transportation Program (MATP) contract, between points in Philadelphia County.

Application of the following for amendment to the contract carrier permit approving the operation of motor vehicles as contract carriers for transportation of persons as described under the application.

A-2010-2162944. Keystone Paratransit, Inc. (5336 Lindbergh Boulevard, Philadelphia, PA 19143)—a corporation of this Commonwealth for amendment to its common carrier certificate—persons between points in the City and County of Philadelphia for the Medical Assistance Transportation Program (MATP) through LogistiCare Solutions, LLC: *So As To Permit* the transportation of persons from points in Delaware and Montgomery Counties, and the City and County of Philadelphia, for Access2Care, LLC.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 10-806. Filed for public inspection April 30, 2010, 9:00 a.m.]

Telecommunications

A-2010-2171478. Verizon Pennsylvania, Inc. and New Horizons Communications Corporation. Joint petition of Verizon Pennsylvania, Inc. and New Horizons Communications Corporation for approval of amendment No. 2 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and New Horizons Communications Corporation, by its counsel, filed on April 21, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for the approval of amend-

ment No. 2 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and New Horizons Communications Corporation joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 10-807. Filed for public inspection April 30, 2010, 9:00 a.m.]

ties). 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 17, 2010. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: RCN Telecom Services (Lehigh), LLC

Through and By Counsel: Jean L. Kiddo, Danielle C. Burt, Bingham McCutchen, LLP, 2020 K Street, N.W., Washington, D.C. 20006, (202) 373-6034, fax (202) 373-6001, Jean.kiddo@bingham.com, Danielle.burt@bingham.com

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 10-809. Filed for public inspection April 30, 2010, 9:00 a.m.]

Telecommunications

A-2010-2171484. Verizon Pennsylvania, Inc. and New Horizons Communications Corporation. Joint petition of Verizon Pennsylvania, Inc. and New Horizons Communications Corporation for approval of amendment No. 2 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and New Horizons Communications Corporation, by its counsel, filed on April 21, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for the approval of amendment No. 2 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and New Horizons Communications Corporation joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 10-808. Filed for public inspection April 30, 2010, 9:00 a.m.]

Telecommunications Services

A-2010-2171457; A-2010-2171458 and A-2010-2171460. RCN Telecom Services (Lehigh), LLC. Application of RCN Telecom Services (Lehigh), LLC for approval to offer, render, furnish or supply telecommunications services to the public as a competitive local exchange carrier in the service territories of Frontier Communications Commonwealth Telephone Company, LLC; Ironton Telephone Company and Palmerton Telephone Company.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utili-

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

The Susquehanna River Basin Commission (Commission) has approved the following list of projects, during the period of January 1, 2010, through January 31, 2010.

For further information contact Richard A. Cairo, General Counsel, (717) 238-0423, Ext. 306, fax (717) 238-2436, rcairo@srbc.net or Stephanie L. Richardson, Secretary to the Commission, (717) 238-0423, Ext. 304, fax (717) 238-2436, srichardson@srbc.net, or mail inquiries to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

Supplementary Information

This notice lists the projects, described as follows, receiving approval for the consumptive use of water under the Commission's approval by rule process set forth in 18 CFR 806.22(f) for the time period specified previously:

Approvals By Rule Issued Under 18 CFR 806.22(f):

1. EXCO Resources (PA), Inc., Pad ID: Roba, ABR-20100101, Scott Township, Lackawanna County, PA; Consumptive Use of up to 2.000 mgd; Approval Date: January 8, 2010.
2. Ultra Resources, Inc., Pad ID: Ken-Ton 902, ABR-20100102, West Branch Township, Potter County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: January 8, 2010.
3. Fortuna Energy, Inc., Pad ID: Vanblarcom R 004, ABR-20100103, Columbia Township, Bradford County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.
4. Chief Oil & Gas, LLC, Pad ID: Lytle Unit Drilling Pad, ABR-20100104, Lawrence Township, Clearfield County, PA; Consumptive Use of up to 5.000 mgd; Approval Date: January 8, 2010.
5. East Resources, Inc., Pad ID: Willard 419-1H, ABR-20100105, Delmar Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.

6. East Resources, Inc., Pad ID: York 480-5H, ABR-20100106, Sullivan Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.

7. East Resources, Inc., Pad ID: Wood 513, ABR-20100107, Rutland Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.

8. Fortuna Energy, Inc., Pad ID: Hoover G 017, ABR-20100108, Canton Township, Bradford County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.

9. Fortuna Energy, Inc., Pad ID: Foust J 1H, ABR-20100109, Granville Township, Bradford County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.

10. Fortuna Energy, Inc., Pad ID: Lutz T1, ABR-20100110, Troy Township, Bradford County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.

11. Fortuna Energy, Inc., Pad ID: Lutz T2, ABR-20100111, Troy Township, Bradford County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.

12. Fortuna Energy, Inc., Pad ID: Thomas FT 1, ABR-20100112, Troy Township, Bradford County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.

13. Fortuna Energy, Inc., Pad ID: Thomas FT 2, ABR-20100113, Troy Township, Bradford County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.

14. East Resources, Inc., Pad ID: Butler 127, ABR-20100114, Delmar Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.

15. J-W Operating Company, Pad ID: Pardee & Curtin Lumber Co. C-04 ABR-20100115, Lumber Township, Cameron County, PA; Consumptive Use of up to 4.500 mgd; Approval Date: January 8, 2010.

16. J-W Operating Company, Pad ID: Pardee & Curtin Lumber Co. C-05 ABR-20100116, Shippen Township, Cameron County, PA; Consumptive Use of up to 4.500 mgd; Approval Date: January 8, 2010.

17. J-W Operating Company, Pad ID: Pardee & Curtin Lumber Co. C-07H, ABR-20100117, Lumber Township, Cameron County, PA; Consumptive Use of up to 4.500 mgd; Approval Date: January 8, 2010.

18. East Resources, Inc., Pad ID: Hackman 143, ABR-20100118, Delmar Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.

19. East Resources, Inc., Pad ID: Baker 128, ABR-20100119, Delmar Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.

20. East Resources, Inc., Pad ID: Charles Stock 144, ABR-20100120, Delmar Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.

21. East Resources, Inc., Pad ID: Kennedy 137, ABR-20100121, Delmar Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.

22. East Resources, Inc., Pad ID: Stevens 142, ABR-20100122, Delmar Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.

23. East Resources, Inc., Pad ID: Castle 113D, ABR-20100123, Canton Township, Bradford County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.

24. East Resources, Inc., Pad ID: Miller 116D, ABR-20100124, Union Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: January 8, 2010.

25. Citrus Energy Corporation, Pad ID: Procter & Gamble Mehoopany Plant 4V, ABR-20100125, Washington Township, Wyoming County, PA; Consumptive Use of up to 5.000 mgd; Approval Date: January 8, 2010.

26. Citrus Energy Corporation, Pad ID: Procter & Gamble Mehoopany Plant 3V, ABR-20100126, Washington Township, Wyoming County, PA; Consumptive Use of up to 5.000 mgd; Approval Date: January 8, 2010.

27. Citrus Energy Corporation, Pad ID: Procter & Gamble Mehoopany Plant 5V, ABR-20100127, Washington Township, Wyoming County, PA; Consumptive Use of up to 5.000 mgd; Approval Date: January 8, 2010.

28. Fortuna Energy, Inc., Pad ID: Castle 01 047, ABR-20100128, Armenia Township, Bradford County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.

29. Fortuna Energy, Inc., Pad ID: TWL Assoc 01 016, ABR-20100129, Armenia Township, Bradford County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: January 8, 2010.

30. Chesapeake Appalachia, LLC, Pad ID: Lionetti, ABR-20100130, Tuscarora Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: January 8, 2010.

31. Chesapeake Appalachia, LLC, Pad ID: Storms, ABR-20100131, Tuscarora Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: January 9, 2010.

32. Chesapeake Appalachia, LLC, Pad ID: Welles 3, ABR-20100132, Terry Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: January 9, 2010.

33. Chesapeake Appalachia, LLC, Pad ID: Shirley, ABR-20100133, Terry Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: January 9, 2010.

34. Chesapeake Appalachia, LLC, Pad ID: Meas, ABR-20100134, Albany Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: January 9, 2010.

35. Chief Oil & Gas, LLC, Pad ID: Walters Unit No. 1H, ABR-20100135, West Burlington Township, Bradford County, PA; Consumptive Use of up to 5.000 mgd; Approval Date: January 9, 2010.

36. Chief Oil & Gas, LLC, Pad ID: Elliott Drilling Pad No. 1H, ABR-20100136, Monroe Township, Bradford County, PA; Consumptive Use of up to 5.000 mgd; Approval Date: January 9, 2010.

37. Cabot Oil & Gas Corporation, Pad ID: ChudleighW P2, ABR-20100137, Dimock Township, Susquehanna County, PA; Consumptive Use of up to 3.575 mgd; Approval Date: January 9, 2010.

38. Cabot Oil & Gas Corporation, Pad ID: LaRueC P3, ABR-20100138, Dimock Township, Susquehanna County, PA; Consumptive Use of up to 3.575 mgd; Approval Date: January 9, 2010.
39. East Resources, Inc., Pad ID: Coolidge 464, ABR-20100139, Delmar Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: January 9, 2010.
40. East Resources, Inc., Pad ID: Sterling 525, ABR-20100140, Rutland Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: January 9, 2010.
41. Chesapeake Appalachia, LLC, Pad ID: Mowry2, ABR-20100141, Tuscarora Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: January 10, 2010.
42. Chesapeake Appalachia, LLC, Pad ID: Harper, ABR-20100142, Terry Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: January 10, 2010.
43. East Resources, Inc., Pad ID: McClure 527, ABR-20100143, Rutland Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: January 10, 2010.
44. Chesapeake Appalachia, LLC, Pad ID: Welles 4, ABR-20100144, Terry Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: January 10, 2010.
45. Cabot Oil & Gas Corporation, Pad ID: Carlson W P1, ABR-20100145, Dimock Township, Susquehanna County, PA; Consumptive Use of up to 3.575 mgd; Approval Date: January 10, 2010.
46. Chief Oil & Gas, LLC, Pad ID: Patterson Drilling Pad No. 1, ABR-20100146, Penn Township, Lycoming County, PA; Consumptive Use of up to 5.000 mgd; Approval Date: January 10, 2010.
47. Chesapeake Appalachia, LLC, Pad ID: Popivchak, ABR-20100147, Burlington Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: January 11, 2010.
48. Chesapeake Appalachia, LLC, Pad ID: Solowiej, ABR-20100148, Wyalusing Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: January 11, 2010.
49. Cabot Oil & Gas Corporation, Pad ID: Baker P1, ABR-20100149, Dimock Township, Susquehanna County, PA; Consumptive Use of up to 3.575 mgd; Approval Date: January 11, 2010.
50. Chesapeake Appalachia, LLC, Pad ID: Horst, ABR-20100150, Smithfield Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: January 11, 2010.
51. Chesapeake Appalachia, LLC, Pad ID: Stevens, ABR-20100151, Standing Stone Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: January 11, 2010.
52. Ultra Resources, Inc., Pad ID: Mitchell A 903, ABR-20100152, West Branch Township, Potter County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: January 13, 2010.
53. XTO Energy Incorporated, Pad ID: Marquardt, ABR-20090712.1, Penn Township, Lycoming County, PA; Consumptive Use totaling up to 3.000 mgd; Approval Date: January 14, 2010.
54. Range Resources—Appalachia, LLC, Pad ID: Genter 3, ABR-20100153, Cummings Township, Lycoming County, PA; Consumptive Use of up to 5.000 mgd; Approval Date: January 20, 2010.
55. Range Resources—Appalachia, LLC, Pad ID: Laurel Hill 1, ABR-20100154, Jackson Township, Lycoming County, PA; Consumptive Use of up to 5.000 mgd; Approval Date: January 20, 2010.
56. Novus Operating, LLC, Pad ID: Sylvester 1H, ABR-20100155, Brookfield Township, Tioga County, PA; Consumptive Use of up to 1.000 mgd; Approval Date: January 21, 2010.
57. EOG Resources, Inc., Pad ID: PHC 20V, ABR-20100156, Lawrence Township, Clearfield County, PA; Consumptive Use of up to 0.999 mgd; Approval Date: January 21, 2010.
58. EOG Resources, Inc., Pad ID: LIDDELL 1H, ABR-20100157, Springfield Township, Bradford County, PA; Consumptive Use of up to 1.999 mgd; Approval Date: January 21, 2010.
59. Novus Operating, LLC, Pad ID: NorthFork 1H, ABR-20100158, Brookfield Township, Tioga County, PA; Consumptive Use of up to 1.000 mgd; Approval Date: January 28, 2010.

Authority: Pub. L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808. Dated: April 16, 2010.

STEPHANIE L. RICHARDSON,
Secretary

[Pa.B. Doc. No. 10-810. Filed for public inspection April 30, 2010, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 86, 87, 88, 89 AND 90]

Incidental Coal Extraction, Bonding, Enforcement, Sediment Control and Remining Financial Guarantees

The Environmental Quality Board (Board) proposes to amend Chapters 86, 87, 88, 89 and 90. The proposed rulemaking incorporates amendments necessary to bring the Commonwealth's regulatory program into conformance with Federal standards for State coal mining regulatory programs. In addition, the proposed rulemaking revises some requirements for the Remining Financial Guarantee Program. The amendments affect requirements relating to incidental coal extraction, bonding, enforcement, sediment control and remining financial guarantees.

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

A. *Effective Date*

The proposed amendments will become effective upon publication as final rulemaking in the *Pennsylvania Bulletin*.

B. *Contact Persons*

For further information, contact William Allen, Chief, Division of Monitoring and Compliance, Bureau of Mining and Reclamation, P. O. Box 8461, Rachel Carson State Office Building, Harrisburg, PA 17105-8461, (717) 787-5103; or Richard S. Morrison, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service at (800) 654-5988 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us>.

C. *Statutory Authority*

The rulemaking is proposed under the authority of section 5 of The Clean Streams Law (35 P. S. § 691.5); sections 4(a) and 4.2 of the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.4(a) and 1396.4b); section 3.2 of the Coal Refuse Disposal Control Act (52 P. S. § 30.53b); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

D. *Background and Purpose*

This proposed amendments satisfy requirements for maintaining a state primacy program under the Federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201—1328) (SMCRA). The amendments in this rulemaking pertain to Federally required program changes described in 30 CFR 938.16(rr), (tt), (vv), (ww), (xx), (zz), (aaa), (ccc), (iii), (jjj), (nnn), (ppp) and (ttt) (relating to required regulatory program amendments). These requirements were imposed by the Federal Office of Surface Mining Reclamation and Enforcement (OSM) on April 8, 1993 ((aaa), (ccc), (iii) and (jjj)), December 29, 1993 ((rr), (tt), (vv), (ww), (xx) and (zz)), July 20, 1994 (nnn) and November 7, 1997 ((ppp) and (ttt)).

Resolving these required amendments is necessary for the Commonwealth to maintain primacy in regulating coal mining. Failure to resolve these program deficiencies could result in OSM asserting its jurisdiction over all or part of the mining regulatory program. There is also a risk that the Federal funding for the Abandoned Mine Land Reclamation Program could be reduced or eliminated if these deficiencies persist.

These requirements relate to notification of the decision by the Department to approve the continuation of an exemption from the permitting requirements for coal that is mined incidental to noncoal mining, violation review for permit approval, permitting exploration on land designated as unsuitable for mining, self-bonding and the stability of large impoundments.

The amendments in this rulemaking represent the outcome of discussions between the Department and OSM relative to the fulfillment of requirements set forth in the Federal rules. The amendments in this rulemaking have been informally approved by OSM. These changes will be formally submitted to OSM as an amendment to the Commonwealth's coal mining program and the Department will request that OSM determine that the outstanding deficiencies noted previously have been satisfied.

In addition, this proposed rulemaking addresses issues that have surfaced in administering the Remining Financial Guarantee Program. These issues are related to operational requirements and the conversion to a conventional bonding system (CBS) undertaken beginning in August 2001.

When the current remining financial guarantee regulations were finalized in 1996, the Department used an alternate bonding system (ABS). The Department initiated the transition from an ABS to a CBS in 2001 and completed the implementation of the program in 2002. Under the ABS, bond amounts were based on per-acre rates and bond funds were supplemented by a per-acre reclamation fee and other funds to assure that the Commonwealth had enough bond money to complete the reclamation in the case of a forfeiture.

Under the CBS, the reclamation cost is calculated using bond rate guidelines for the specific reclamation tasks. Bond rate guidelines are updated routinely to keep up with changes in reclamation costs. The CBS is also referred to as full-cost bonding because the bond amount is determined based on the total projected reclamation cost. Bond amounts are no longer calculated on a per-acre basis. The regulations governing the Remining Financial Guarantee Program are being amended to better align with the transition to full-cost bonding for all mining operations.

Finally, the proposed rulemaking includes several minor editorial changes needed to correct spelling, spacing and punctuation errors.

E. *Summary of Regulatory Requirements*

OSM Program Deficiencies Remining Financial Guarantees and Permit Application Fees

§ 86.1. Definitions.

The Noncoal Surface Mining Conservation and Reclamation Act (NSMCRA) (52 P. S. §§ 3301—3326) is being added to the list for the definition of "Acts." When Chapter 86 was promulgated in 1983, noncoal mining was regulated under the authority of SMCRA. In 1984, the NSMCRA was enacted, superseding the role of

SMCRA for noncoal mining. To comply with Federal program requirements (and to have an effective regulatory program) relating to incidental extraction of coal under noncoal mining permits, it is necessary to include NSMCRA in the applicable Acts.

This amendment was required, in part, by the Federal requirements in 30 CFR 938.16(tt).

The definition of “owned or controlled” and “owns or controls” is being corrected to include the current reference to the Federal regulations relating to definitions. This is necessary because of Federal regulation revisions that resulted in the definition being placed in a different section.

§ 86.5. *Extraction of coal incidental to noncoal surface mining.*

Subsection (m) is amended to add the requirement for the Department to notify interested parties in the case that the Department decides not to revoke an exemption from the coal permitting requirements.

This amendment was required under the Federal requirements in 30 CFR 938.16(ppp).

§ 86.36. *Review of permit applications.*

This section is being amended to delete the 3-year time limitation for the review of an outstanding Federal violation.

This amendment was required under the Federal requirements in 30 CFR 938.16(rr).

§ 86.37. *Criteria for permit approval or denial.*

Subsection (a)(8) is amended to include a reference to the Federal definition of a violation.

This amendment was required under the Federal requirements in 30 CFR 938.16(ww). This amendment also resolves the deficiencies in 30 CFR 938.16(vv) and (xx).

§ 86.62. *Identification of interests.*

Subsection (b)(2)(ii) is being amended to correct the reference to the Federal minimum enforcement action.

This amendment was required under the Federal requirements in 30 CFR 938.16(zz).

Subsection (c) is being amended to include the permittee name and address as required information relating to permits for related entities and to clarify that issued permits must be reported as part of an application.

This amendment was required under the Federal requirements in 30 CFR 938.16(aaa).

§ 86.103(g). *Procedures.*

Subsection (g) is being added to require that the procedures for processing an assertion of valid existing rights follow the Federal requirements by incorporating the Federal procedural requirements by reference.

This amendment was required under the Federal requirements in 30 CFR 938.16(ccc).

§ 86.129. *Coal exploration on areas designated as unsuitable for surface mining operations.*

Subsection (b) is being amended to provide specific procedures and requirements for permit applications for exploration activities on lands designated as unsuitable for mining. The detailed requirements mirror the Federal procedures and standards for approval. This amendment also results in the renumbering of current subsection (b)(1) and (2).

This amendment was required under the Federal requirements in 30 CFR 938.16(ccc).

§ 86.133. *General requirements.*

Subsection (f) is being amended to clarify that a permit is required for exploration activities on lands designated as unsuitable for mining.

This amendment was required under the Federal requirements in 30 CFR 938.16(ccc).

§ 86.159. *Self-bonding.*

Subsection (l)(1) is amended to incorporate the language in the Federal regulations regarding the indemnification of self-bonds in the case of a corporate applicant that has a parent company. To date, there have not been any coal mine operators to use self-bonding.

This amendment was required under the Federal requirements in 30 CFR 938.16(nnn).

§ 87.112. *Hydrologic balance: dams, ponds, embankments and impoundments—design, construction and maintenance.*

Subsection (c) is amended to add a requirement to protect miners or the public. Subsection (c)(1) is amended to add the required seismic safety factor.

These amendments were required under the Federal requirements in 30 CFR 938.16(iii).

§ 88.321. *Disposal of noncoal wastes.*

This section is being amended to include all noncoal wastes and to apply the prohibition to impoundments.

This amendment was required under the Federal requirements in 30 CFR 938.16(ttt).

§ 89.111. *Large impoundments.*

Subsection (c) is amended to add a requirement to protect miners or the public. Subsection (c)(1) is amended to add the required seismic safety factor.

These amendments were required under the Federal requirements in 30 CFR 938.16(iii).

§ 90.112. *Hydrologic balance: dams, ponds, embankments and impoundments—design, construction and maintenance.*

Subsection (c) is amended to add a requirement to protect miners or the public. Subsection (c)(2) is amended to match the language in the Federal regulations regarding spillway capacity for large impoundments at coal refuse disposal sites.

These amendments were required under the Federal requirements in 30 CFR 938.16(jjj).

§ 90.133. *Disposal of noncoal wastes.*

This section is being amended to include all noncoal wastes and to apply the prohibition to impoundments.

This amendment was required under the Federal requirements in 30 CFR 938.16(ttt).

Remining Financial Guarantees

§ 86.165. *Failure to maintain proper bond.*

Subsection (a) is amended to add that an operator’s obligation to maintain a proper bond includes the payments required under the Remining Financial Guarantee Program. This amendment will allow the enforcement of the payment requirement using consistent procedures.

§ 86.281. *Financial guarantees to insure reclamation—general.*

Subsection (c) is amended to provide that the Department will designate a specified amount in the financial guarantees special account as financial assurance for the reclamation obligation of a permit with an approved remining area, rather than reserving a portion of those funds. This change is necessary in light of the conversion to a conventional bonding program. Under conventional bonding, the total reclamation cost is accounted for when determining the bond amount, thus enabling the Department to calculate more precisely the amount of funds that may need to be used to reclaim an approved remining area covered by a remining financial guarantee.

Subsection (e) is amended in conjunction with the revision in subsection (c) and to clarify that all of the bonds forfeited (including the Remining Financial Guarantee) on a permit are to be used for reclamation of the mine site (including the remining area). It also is amended to allow, rather than require, the use of additional funds from the Remining Financial Assurance Fund if they are needed to complete the reclamation of the mine site. This change is based primarily on the concept that under conventional bonding, the bond amount posted is the amount required to complete the reclamation. In addition, it provides the Department with flexibility to use money from the Remining Financial Assurance Fund to pay for the necessary reclamation.

§ 86.282. *Participation Requirements.*

Subsection (a)(2) is being revised to delete the option of using the ability to obtain a letter of credit as a demonstration of financial responsibility. Experience in implementing the Remining Financial Guarantee Program has shown that the ability to obtain a letter of credit from a bank is not a good test of financial responsibility.

§ 86.283. *Procedures.*

Subsection (a)(1) is amended to change the way the amount of the payment is determined as a result of the change to conventional bonding. The deleted language is based on the per-acre bond rate system. The proposed wording is based on the amount of the remining financial guarantee.

Subsection (d) is amended to clarify how financial guarantee funds are allocated.

Subsection (e) is amended to delete language relating to the process of “bond rollover” that was allowed under the ABS. The concept of “bond rollover” is not pertinent to conventional bonding.

Subsection (f) is being added to reduce the potential risk of insolvency of the Remining Financial Assurance Fund by requiring the replacement of a remining financial guarantee in the event a pollutional discharge occurs at a mine site bonded with a remining financial guarantee.

§ 86.284. *Forfeiture.*

Subsections (a) and (c) are amended to be consistent with the changes made in § 86.281(c) and (e).

Corrections

§ 86.195. *Penalties against corporate officers.*

Subsection (b) is amended to add an “s” to the word “officer.”

§ 86.211. *Enforcement—general.*

Subsection (d) is amended to use the word “clear” instead of “clean.”

§ 86.281. *Financial guarantees to insure reclamation—general.*

Subsection (d) is amended to add the article “The” at the beginning and correct two typographical errors.

§ 87.119. *Hydrologic balance: water rights and replacement.*

Subsection (g) is being corrected to remove attorney fees and expert witness fees from the specific costs that may be recovered.

This correction is necessary due to a revision to the SMCRA.

F. Benefits, Costs and Compliance

The amendments will enable the Commonwealth to fulfill its primacy obligations and retain primary enforcement responsibility over coal mining operations. They will also allow for more effective management of the Remining Financial Guarantee Program.

Compliance Costs

It is not anticipated that the proposed changes will impose any total additional compliance costs on the regulated community.

Compliance Assistance Plan

The Department will provide written notification to all coal mine operators to inform them of the final promulgation of these regulatory changes. The Department will also hold roundtable meetings with mine operators and consultants to explain program changes and answer questions.

The Department will update its fact sheets explaining the regulations. The Department will continue to meet with affected landowners and assist them in understanding the amended regulations.

Paperwork Requirements

The amendments will require the Department to update its fact sheets explaining the law and regulations.

G. Pollution Prevention

The proposed rulemaking will not modify the pollution prevention approach by the regulated community and maintains the multimedia pollution prevention approach of existing requirements in Chapter 86 (relating to surface and underground coal mining: general).

H. Sunset Review

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

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 21, 2010, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the House and Senate Environmental Resources and Energy Committees (Committees). In addition to submitting the proposed rulemakings, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemakings within 30 days of 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 specifies detailed procedures for review of these issues by the Department, the General Assembly and the Governor prior to final publication of the regulations.

J. Public Comments

Written comments. Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemakings to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by June 1, 2010. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one-page in length and must also be received by the Board by June 1, 2010. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic comments. Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by June 1, 2010. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgement of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

JOHN HANGER,
Chairperson

Fiscal Note: 7-458. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE I. LAND RESOURCES

CHAPTER 86. SURFACE AND UNDERGROUND COAL MINING: GENERAL

Subchapter A. GENERAL PROVISIONS

§ 86.1. Definitions.

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

* * * * *

Acts—Include the following:

* * * * *

(ix) The Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326).

* * * * *

Owned or controlled and owns or controls—One or a combination of the relationships specified in subparagraphs (i)—(iv):

* * * * *

(iii) The following relationships are presumed to constitute ownership or control unless a person can demonstrate that the person subject to the presumption does not

in fact have the authority directly or indirectly to determine the manner in which the relevant coal mining activity is conducted:

* * * * *

(E) Based on the instruments of ownership or the voting securities of a corporate entity, owning of record a percentage of the entity as established in the definition of "owned or controlled and owns or controls" in 30 CFR [773.5] 701.5 (relating to definitions).

* * * * *

§ 86.5. Extraction of coal incidental to noncoal surface mining.

* * * * *

(m) If the Department has reason to believe that a specific mining area was not exempt under this section at the end of the previous reporting period, is not exempt or will be unable to satisfy the exemption criteria at the end of the current reporting period, the Department will notify the operator that the exemption may be revoked and the reasons therefore. The exemption will be revoked unless the operator demonstrates to the Department within 30 days that the mining area in question should continue to be exempt. The operator and interested parties will be immediately notified of the revocation or of the decision not to revoke the exemption.

* * * * *

Subchapter B. PERMITS
REVIEW, PUBLIC PARTICIPATION AND APPROVAL, DISAPPROVAL OF PERMIT APPLICATIONS AND PERMIT TERMS AND CONDITIONS

§ 86.36. Review of permit applications.

* * * * *

(c) The Department will verify from the schedule submitted under § 86.63 (relating to compliance information) or other information available to the Department that coal mining activities owned or controlled by the applicant, a person owned or controlled by the applicant or a person who owns or controls the applicant under the definition of "owned or controlled" or "owns or controls" in § 86.1 (relating to definitions) are not currently in violation of the acts or the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C.A. §§ 1201—1328), or that the violation is in the process of being corrected to the satisfaction of the regulatory authority, department or agency which has jurisdiction over the violation of the acts or the Surface Mining Control and Reclamation Act of 1977 and a law, rule or regulation of a department or agency of the United States or of a state in the United States pertaining to air or water environmental protection incurred by the applicant in connection with a coal mining activity [during the 3-year period prior to the date of application].

§ 86.37. Criteria for permit approval or denial.

(a) A permit or revised permit application will not be approved unless the application affirmatively demonstrates and the Department finds, in writing, on the basis of the information in the application or from information otherwise available, which is documented in the approval, and made available to the applicant, that the following apply:

* * * * *

(8) The applicant has submitted proof that a violation related to the mining of coal by the applicant, a person

owned or controlled by the applicant or a person who owns or controls the applicant under the definition of "owned or controlled" or "owns or controls" in § 86.1 (relating to definitions) or by a related party of the acts, a rule, regulation, permit or license of the Department has been corrected or is in the process of being corrected to the satisfaction of the Department, whether or not the violation relates to an adjudicated proceeding, agreement, consent order or decree, or which resulted in a cease order or civil penalty assessment. **For the purpose of this section, the term "violation" includes the types of violations listed in the definition of "violation" in 30 CFR 701.5 (relating to definitions).** A permit issued under this paragraph on the basis that a violation is in the process of being corrected or pending the outcome of an appeal, and the appropriate regulatory authority program having jurisdiction over the violation provides for a stay of execution of the abatement procedure or a court of competent jurisdiction has issued a supersedeas providing that relief, will be issued conditionally.

* * * * *

MINIMUM REQUIREMENTS FOR LEGAL FINANCIAL COMPLIANCE AND RELATED INFORMATION

§ 86.62. Identification of interests.

* * * * *

(b) *Statement.* An application [**shall**] **must** contain a statement of whether the applicant is a corporation, partnership, single proprietorship, association or other business entity. For all entities, the application [**shall**] **must** contain the following information, as applicable, for each person who owns or controls the applicant under the definition of "owned or controlled" or "owns or controls" in § 86.1 (relating to definitions) except that the submission of a [**social security**] **Social Security** number is voluntary:

(1) The name, address, [**social security**] **Social Security** number and employer identification number of every:

* * * * *

(2) For each person listed in paragraph (1), list the following:

* * * * *

(ii) The date the position or stock ownership was assumed, and when submitted under § [**86.63 (relating to compliance information)**] **86.212(c) (relating to Federal minimum enforcement action)**, the date of departure from the position.

* * * * *

(c) *Related entity information.* Include the following:

(1) List the names of entities who, under the definition of "owned or controlled" or "owns or controls" in § 86.1, own or control the applicant or who are owned or controlled by the applicant and provide the following information for each entity:

(i) Identifying numbers, including employer identification number, Federal or State permit numbers, **permittee name and address** and the MSHA numbers with date of issuance for each permit.

(ii) The application number or other identifier, [**of**] and the regulatory authority for other **issued or pending**

mining operation permit applications filed by the entity in any state in the United States.

* * * * *

(2) For each person listed in subsection (b)(1), who is, or has been, associated with another entity as an owner or controller, under the definition of "owned or controlled" or "owns or controls" in § 86.1, within the 5-year period preceding the date of application, provide the following information:

* * * * *

(iii) The application number or other identifier, [**of**] and the regulatory authority for other **issued or pending** mining operation permit applications filed by the entity with which the person is affiliated in any state in the United States.

* * * * *

Subchapter D. AREAS UNSUITABLE FOR MINING GENERAL PROVISIONS

§ 86.103. Procedures.

* * * * *

(g) An application that includes an assertion of valid existing rights must meet the requirements and follow the procedures established in 30 CFR 761.16 (relating to submission and processing of requests for valid existing rights determinations).

CRITERIA AND PROCEDURES FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE MINING

§ 86.129. Coal exploration on areas designated as unsuitable for surface mining operations.

* * * * *

(b) Coal exploration may be conducted on an area designated as unsuitable for surface mining operations in accordance with this chapter if the following apply:

(1) The person conducting coal exploration obtains an exploration permit from the Department under this section which meets the following conditions:

(i) The permit application demonstrates that the requirements of this section and § 86.134 (relating to coal exploration performance and design standards) will be met.

(ii) Public notice of the application and opportunity to comment is provided in accordance with §§ 86.31 and 86.32 (relating to public notices of filing of permit applications; and opportunity for submission of written comments or objections on the permit application).

(2) The permit application must contain the following information:

(i) The name, address and telephone number of the applicant.

(ii) The name, address and telephone number of the applicant's representative who will be present at, and responsible for, conducting the exploration activities.

(iii) A narrative describing the proposed exploration area.

(iv) A narrative description of the methods and equipment to be used to conduct the exploration and reclamation.

(v) An estimated timetable for conducting and completing each phase of the exploration and reclamation.

(vi) The estimated amount of coal to be removed and a description of the methods to be used to determine the amount.

(vii) A description of the following:

(A) Cultural or historical resources listed on the National Register of Historic Places.

(B) Cultural or historical resources known to be eligible for listing on the National Register of Historic Places.

(C) Known archeological resources located within the proposed exploration area.

(D) Other information which the regulatory authority may require regarding known or unknown historic or archeological resources.

(viii) A description of any endangered or threatened species listed under the Endangered Species Act of 1973 (16 U.S.C.A. §§ 1531—1544) identified within the proposed exploration area.

(ix) A description of the measures to be used to comply with the applicable requirements of § 86.134 (relating to coal exploration performance and design standards).

(x) The name and address of the owner of record of the surface land and of the subsurface mineral estate of the area to be explored.

(xi) A map or maps at a scale of 1:24,000, or larger, showing the areas of land to be disturbed by the proposed exploration and reclamation. The map must specifically show the following:

(A) Existing roads, occupied dwellings, topographic and drainage features, bodies of surface water, and pipelines.

(B) Proposed locations of trenches, roads, and other access routes and structures to be constructed; and the location of proposed land excavations.

(C) The location of exploration holes or other drill holes or underground openings.

(D) The location of excavated earth or waste-material disposal areas.

(E) The location of critical habitats of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973.

(xii) If the surface is owned by a person other than the applicant, a description of the basis upon which the applicant claims the right to enter that land for the purpose of conducting exploration and reclamation.

(xiii) For any lands listed in § 86.102 (relating to areas where mining is prohibited or limited), a demonstration that, to the extent technologically and economically feasible, the proposed exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for surface coal mining operations. The application must include documentation of consultation with the owner of the feature causing the land to come under the protection of § 86.102, and, when applicable, with the agency with primary jurisdiction over the feature with

respect to the values that caused the land to come under the protection of § 86.102.

(3) The exploration is consistent with the designation.

[(2)] (4) The exploration will be conducted to preserve and protect the applicable values and uses of the area under Subchapter E (relating to coal exploration) [and the Department has issued written approval for the exploration].

(5) The permit term may not exceed 2 years and the permit may not be renewed or transferred.

(6) The amount of coal removed shall be limited to the quantity needed for testing and analysis and may not exceed 250 tons.

(7) The application shall be subject to the criteria for permit approval or denial in § 86.37 (relating to the criteria for permit approval or denial) and 30 CFR 772.12(d) (relating to permit requirements for exploration that will remove more than 250 tons of coal or that will occur on lands designated as unsuitable for surface coal mining operations), and the requirements for final permit action in § 86.39 (relating to final permit action).

Subchapter E. COAL EXPLORATION

§ 86.133. General requirements.

* * * * *

(f) Coal exploration on lands where a petition to declare an area unsuitable for mining has been received by the Department or on lands designated unsuitable for mining shall [by] be conducted only after [written approval is granted by] a permit has been obtained from the Department. This permit requirement may not be waived. The Department may prescribe conditions and requirements necessary to preserve the values sought to be protected in the petition before approving coal exploration in these areas. The exploration activities shall be conducted in accordance with § 86.129 (relating to coal exploration) to insure that the exploration activity does not interfere with a value for which the area has been designated unsuitable for mining.

* * * * *

Subchapter F. BONDING AND INSURANCE REQUIREMENTS

FORM, TERMS AND CONDITIONS OF BONDS AND INSURANCE

§ 86.159. Self-bonding.

* * * * *

(1) The self-bond shall be executed by:

* * * * *

(2) If the applicant is a subsidiary corporation, the applicant's parent corporation shall be a party to the self-bond which shall establish the applicant and its parent corporation as co-indemnitors under the self-bond. Corporations applying for a self-bond, and parent and nonparent corporations guaranteeing an applicant's self-bond, shall submit an indemnity agreement signed by two corporate officers who are authorized to bind their corporations. A copy of the authorization shall be submitted to the Department along with an affidavit certifying that the agreement is valid under all applicable Federal and State laws. In addition, the corporate guarantor shall provide a copy of the corporate authorization dem-

onstrating that the corporation may guarantee the self-bond and execute the guarantee agreement. The parent corporation may cancel its obligations under the self-bond upon 120 days written notice to the Department, but the cancellation will not be effective until the self-bond is replaced with an alternate form of bonding authorized [by] under this subchapter and approved by the Department.

* * * * *

§ 86.165. Failure to maintain proper bond.

(a) If a permittee fails to promptly post additional bond required under § 86.152 (relating to adjustments), or fails to make timely deposits of bond according to the schedule submitted under § 86.161 (relating to phased deposits of collateral), or fails to make payments under § 86.162a (relating to Anthracite Deep Mine Operators Emergency Bond Loan Fund) or fails to maintain subsidence insurance provided in § 86.162 (relating to subsidence insurance in lieu of bond), or fails to make annual payments for financial guarantees as required under § 86.283(a) (relating to procedures), the Department will issue a notice of violation to the permittee, and if the permittee fails to correct the violation within 15 days of the notice, the Department will issue a cessation order for the permittee's permit areas and thereafter take actions that may be appropriate.

* * * * *

Subchapter G. CIVIL PENALTIES FOR COAL MINING ACTIVITIES

GENERAL PROVISIONS

§ 86.195. Penalties against corporate officers.

* * * * *

(b) Whenever the Department issues an order to an operator for failing to abate violations contained in a previous order, it will send by certified mail to each corporate officer listed in the surface mining operator's license application under § 86.353 (relating to identification of ownership), or to each corporate officer listed in a coal mining activities application under § 86.62 (relating to identification of interests), a copy of the failure to abate order and a notice of the [officer's] officer's liability under this section. If the violations are not abated within 30 days of issuance of the failure to abate order, the Department may assess a civil penalty against each officer receiving the notice provided by this subsection.

* * * * *

Subchapter H. ENFORCEMENT AND INSPECTION

GENERAL PROVISIONS

§ 86.211. Enforcement—general.

* * * * *

(d) If one or more of the conditions in subsection (b) exist, the operator may request the Department to grant an abatement period exceeding 90 days. The abatement period granted will not exceed the shortest possible time necessary to abate the violation. The operator has the burden of establishing by [clean] clear and convincing proof that he is entitled to an extension under this section. In determining whether or not to grant an abatement period exceeding 90 days, the Department may consider relevant written information from the operator or other sources.

Subchapter J. REMINING AND RECLAMATION INCENTIVES

BONDING INCENTIVES

§ 86.281. Financial guarantees to insure reclamation—general.

* * * * *

(b) The financial guarantee applies to a permit with reining areas approved by the Department. Operators who wish to participate in this program shall demonstrate, for each permit, their eligibility under §§ 86.253 and 86.282 (relating to operator and project qualification; and participation requirements).

(c) For each approved permit of an eligible operator for a reining area, the Department will [reserve a portion] designate a specified amount of the financial guarantees special account in the Reining Financial Assurance Fund [as collateral for] to financially assure reclamation obligations on the permit with an approved reining area. [The amount of the reserve will be the average cost per acre for the Department to reclaim a mine site multiplied by the number of acres in the reining area] The specific amount designated will be the estimated cost for the Department to reclaim the reining area.

(d) The Department may not issue financial guarantees on a permit in excess of 10% of the then current amount in the special account in the Reining Financial [Assurance] Assurance Fund. The Department will not issue financial guarantees [to a] to a mine operator if the aggregate amount of financial guarantees on permits issued to the operator will exceed 30% of the then current amount in the special account in the Reining Financial Assurance Fund. The Department will not issue additional financial guarantees when the aggregate amount of outstanding financial guarantees exceeds that amount resulting from dividing the current amount in the special account in the Reining Financial Assurance Fund by the historical rate of bond forfeiture under § 86.181 (relating to [bond forfeiture-] general) with a margin of safety determined by the Department.

(e) Upon declaration of forfeiture, the [reserved funds] specified amount of the financial guarantee from the financial guarantee special account will be used with other bonds forfeited on the permit by the Department to complete reclamation of the [reining area] mine site in accordance with the procedures and criteria in §§ 86.187—86.190. If the actual cost of reclamation by the Department exceeds the [amount reserved] specified amount of the financial guarantee, additional funds from the Reining Financial Assurance Fund [will] may be used to complete reclamation.

§ 86.282. Participation requirements.

(a) Upon completion of the technical review of a permit application and receipt of a request for bond, an operator may apply to participate in the financial guarantees program for a reining area if the requirements of § 86.253 (relating to operator and project qualification) are met. To participate in this program, an operator shall demonstrate to the Department's satisfaction one of the following:

* * * * *

(2) The operator would be able to obtain a surety bond [**or letter of credit collateral bond**] otherwise required under this chapter. The operator will demonstrate this by submitting a letter of acceptance from a surety company licensed to do business in this Commonwealth and which writes bonds for reclamation of mine sites located in this Commonwealth or by submitting a surety bond [**or letter of credit collateral bond**] for an **equal portion of the remaining [permit area] reclamation liability for the permitted remining site.** The acceptance letter [**shall**] **must** indicate the complete name and address of the surety company and state that the surety company would write the bond.

* * * * *

§ 86.283. Procedures.

(a) An operator's participation in the financial guarantees program is subject to the following:

(1) Annual payments will be 1% of the total amount of the [**number of acres of remining area to be affected multiplied by the Department's current applicable bond rates**] **remining financial guarantee.**

* * * * *

(d) The Department will issue a letter to the operator specifying the amount of money in the financial guarantees special account in the Remining Financial Assurance Fund [**which has been reserved as collateral**] **allocated as financial assurance** for the operator's reclamation obligations on the remining area. A copy of the letter will be kept in the operator's permit application file.

(e) The obligation covered by the financial guarantees program bond will be reduced or released prior to any other bond submitted by the operator to cover the reclamation obligations of that permit. [**This portion of the bond may not be used to cover the reclamation obligation on another section of the permit area.**]

(f) **If a discharge not meeting the effluent criteria of § 87.102, § 88.92, § 88.187, § 88.292, § 89.52 or § 90.102 develops on a permit on which a financial guarantee is being used, the operator shall within 90 days of receipt of written notice by the Department replace the financial guarantee with other types of financial assurance mechanisms authorized for the purpose of covering the costs of treating the discharge. If an acceptable bond has not been received and approved by the Department within the specified time limit, the Department will issue a cessation order for mining activities except for reclamation and other activities required to maintain the permit area.**

§ 86.284. Forfeiture.

(a) Upon forfeiture under § 86.181 (relating to general), the Department will declare forfeit the **specified amount [reserved for the operator] of the financial guarantee for the permit** in the financial guarantees special account in the Remining Financial Assurance Fund in addition to other bonds posted by the operator to cover the reclamation obligation on the permit.

* * * * *

(c) Upon declaration of forfeiture, the Department will use the bond money **posted by the operator and [reserved funds] the specified amount of the fi-**

ancial guarantee to complete the reclamation of the mine site in accordance with the procedures and criteria in §§ 86.187—86.190.

* * * * *

CHAPTER 87. SURFACE MINING OF COAL

Subchapter E. SURFACE COAL MINES: MINIMUM ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

§ 87.112. Hydrologic balance: dams, ponds, embankments and impoundments—design, construction and maintenance.

* * * * *

(c) If the embankment is more than 20 feet in height as measured from the upstream toe of embankment to the crest of the emergency spillway or has a storage volume of 20 acre-feet or more, [**or**] is located where failure could cause loss of life or serious property damage **or otherwise poses a hazard to miners or the public, it [shall] must:**

(1) Be stable under all probable conditions of operation and be designed and constructed to achieve a static safety factor of 1.5 or other higher static safety factor required by the Department **and a seismic safety factor of at least 1.2.**

* * * * *

§ 87.119. Hydrologic balance: water rights and re-placement.

* * * * *

(g) *Operator cost recovery.* A surface mine operator or mine owner who appeals a Department order, provides a successful defense during the appeal to the presumptions of liability and is not otherwise held responsible for the pollution or diminution is entitled to recovery of reasonable costs incurred, including, but not limited to, the costs of temporary water supply, design, construction, and restoration or replacement costs [**, attorney fees and expert witness fees**] from the Department.

* * * * *

CHAPTER 88. ANTHRACITE COAL

Subchapter D. ANTHRACITE REFUSE DISPOSAL: MINIMUM ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

§ 88.321. Disposal of noncoal wastes.

Noncoal wastes including, but not limited to, grease, lubricants, paints, flammable liquids, garbage and other hazardous wastes shall be disposed of or stored temporarily in accordance with the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the regulations promulgated thereunder. Storage shall be [**such**] **in a manner** that fires are prevented and [**that**] the area remains stable and suitable for reclamation and revegetation. [**Waste**] **Noncoal waste materials [with low ignition points]** including, but not limited to, wood, cloth, waste paper, oil, grease and garbage may not be deposited on or near a coal refuse disposal pile **or impounding structure.**

CHAPTER 89. UNDERGROUND MINING OF COAL AND COAL PREPARATION FACILITIES

Subchapter D. STRUCTURAL REQUIREMENTS FOR IMPOUNDMENTS PERFORMANCE STANDARDS

§ 89.111. Large impoundments.

* * * * *

(c) If the embankment is more than 20 feet in height as measured from the upstream toe of the embankment to the crest of the emergency spillway, or has a storage volume of 20 acre feet or more, [or] is located where failure could cause loss of life or serious property damage or otherwise poses a hazard to miners or the public, it shall:

(1) Be stable under all probable conditions of operation and be designed and constructed to achieve a static safety factor of 1.5, or higher if required by the Department and a seismic safety factor of at least 1.2.

* * * * *

CHAPTER 90. COAL REFUSE DISPOSAL

Subchapter D. PERFORMANCE STANDARD FOR COAL REFUSE DISPOSAL

§ 90.112. Hydrologic balance: dams, ponds, embankments and impoundments—design, construction and maintenance.

* * * * *

(c) If the embankment is more than 20 feet in height as measured from the upstream toe of embankment to the crest of the emergency spillway, or has a storage

volume of 20 acre feet or more, [or] is located where failure, could cause loss of life or serious property damage or otherwise poses a hazard to miners or the public, it [shall] must:

* * * * *

(2) Have an appropriate combination of principal and emergency spillways to [discharge safely the runoff from a 100-year, 24-hour precipitation event or a larger event specified and required by the Department] safely pass, adequate storage capacity to safely contain, or a combination of storage capacity and spillway capacity to safely control, the probable maximum precipitation of a 6-hour precipitation event.

* * * * *

§ 90.133. Disposal of noncoal wastes.

Noncoal wastes, including, but not limited to, grease, lubricants, paints, flammable liquids, garbage and other hazardous wastes, shall be disposed of or stored temporarily in accordance with the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the regulations promulgated thereunder. Storage [shall] must be of a type that fires are prevented and that the area remains stable and suitable for reclamation and revegetation. [Waste] Noncoal waste materials [with low ignition points] including, but not limited to, wood, cloth, waste paper, oil, grease and garbage may not be deposited on or near a coal refuse disposal pile or impounding structure.

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