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# PENNSYLVANIA BULLETIN

Volume 36

Number 23

Saturday, June 10, 2006 • Harrisburg, PA

Pages 2793—2944

See Part II page 2899 for  
the Pennsylvania Gaming Control  
Board's Temporary Regulations

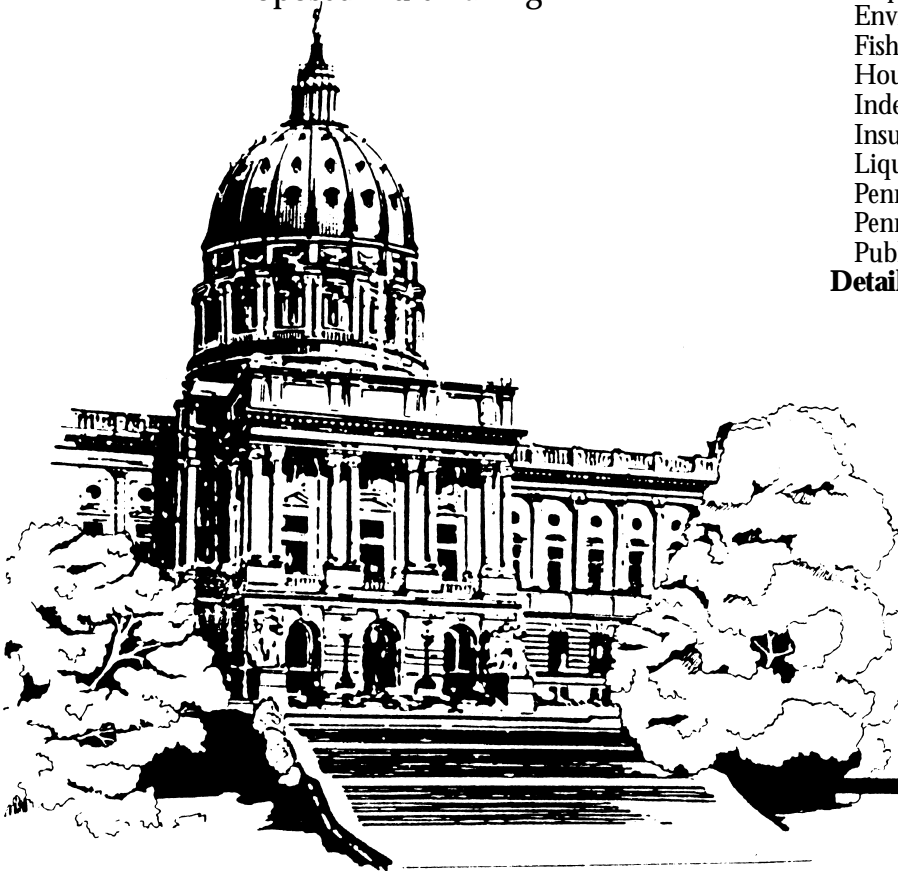
See Part III page 2913 for  
the Department of Labor and  
Industry's Medical Cost Containment  
Proposed Rulemaking

## Part I

### Agencies in this issue

The Courts  
Department of Banking  
Department of Environmental Protection  
Department of General Services  
Department of Labor and Industry  
Department of Public Welfare  
Department of Revenue  
Environmental Hearing Board  
Fish and Boat Commission  
Housing Finance Agency  
Independent Regulatory Review Commission  
Insurance Department  
Liquor Control Board  
Pennsylvania Gaming Control Board  
Pennsylvania Public Utility Commission  
Public School Employees' Retirement Board

**Detailed list of contents appears inside.**



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(Master Transmittal Sheet):**

**No. 379, June 2006**

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# CONTENTS

## THE COURTS

**DISCIPLINARY BOARD OF THE SUPREME COURT**  
Notice of suspension ..... 2805

**JUDICIAL SYSTEM GENERAL PROVISIONS**  
Amendments to the Pennsylvania rules of professional conduct and the Pennsylvania rules of disciplinary enforcement relating to safekeeping property and funds of clients and third persons—mandatory overdraft notification..... 2801

## EXECUTIVE AGENCIES

### DEPARTMENT OF BANKING

**Notices**  
Action on applications..... 2806

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

**Notices**  
Applications, actions and special notices..... 2808  
Availability of technical guidance ..... 2863  
Citizens Advisory Council to the Department of Environmental Protection; meeting change ..... 2864  
Draft Pennsylvania stormwater best management practices manual and draft Pennsylvania model stormwater management ordinance; comment period extension ..... 2864  
Extension of Pennsylvania general NPDES permit for concentrated animal feeding operations (PAG-12)..... 2865  
Mining and Reclamation Advisory Board; meeting change..... 2865  
Recycling markets infrastructure development grant; application announcement ..... 2866

### DEPARTMENT OF GENERAL SERVICES

**Notices**  
State contracts information..... 2893

### DEPARTMENT OF LABOR AND INDUSTRY

**Proposed Rulemaking**  
Medical cost containment..... 2913

### DEPARTMENT OF PUBLIC WELFARE

**Notices**  
Medical Assistance program fee schedule revision... 2866  
Medical Assistance program; prior authorization list..... 2867

### DEPARTMENT OF REVENUE

**Notices**  
Pennsylvania Caribbean Stud® Poker instant lottery game ..... 2867  
Pennsylvania HumonGus Bucks instant lottery game..... 2869

Pennsylvania Player's Club/Roulette/Dice/Blackjack/Slots instant lottery game..... 2872  
Realty transfer tax; 2005 common level ratio real estate valuation factors ..... 2875

### ENVIRONMENTAL HEARING BOARD

**Notices**  
JDM Materials Company v. DEP; EHB doc. no. 2006-144-MG ..... 2876

### FISH AND BOAT COMMISSION

**Notices**  
Proposed change to list of class A wild trout waters; Beaverdam Run, Somerset County ..... 2876  
Proposed special regulation designations and redesignations..... 2877  
2006 changes to list of wild trout streams ..... 2878

### HOUSING FINANCE AGENCY

**Notices**  
2007 low income housing tax credit allocation plan public hearing ..... 2882

### INDEPENDENT REGULATORY REVIEW COMMISSION

**Notices**  
Notice of comments issued ..... 2882  
Notice of filing of final rulemakings..... 2885

### INSURANCE DEPARTMENT

**Notices**  
Application for a domestic certificate of authority ... 2885  
Application for voluntary surrender of certificate of authority..... 2885  
Progressive Specialty Insurance Company; private passenger automobile rate and rule revisions; rate filing..... 2885

### LIQUOR CONTROL BOARD

**Notices**  
Expiration of leases..... 2886

### PENNSYLVANIA GAMING CONTROL BOARD

**Temporary Regulations**  
Temporary regulations;  
Employee credentialing ..... 2900  
Licensing..... 2899  
Persons required to be excluded ..... 2905  
Self exclusion..... 2902

### PENNSYLVANIA PUBLIC UTILITY COMMISSION

**Notices**  
Recalculation of the Pennsylvania telecommunications relay service surcharge; M-00900239 F0010..... 2887  
Service of notice of motor carrier applications..... 2889  
Telecommunications services..... 2892

### PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

**Notices**  
Hearings scheduled ..... 2892

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

## ***Pennsylvania Bulletin***

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

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

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

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

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

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

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

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

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

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

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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## List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2006.

### 4 Pa. Code (Administration)

#### Adopted Rules

1	1741
6	378, 381, 1039
7	1633
161	194
241	2515
243	2516
249	2517

#### Statements of Policy

9	29, 397, 724, 1049, 2730
114	2017

### 7 Pa. Code (Agriculture)

#### Proposed Rules

49	936
130e	288
145	2016

#### Statements of Policy

130e	196
------	-----

### 12 Pa. Code (Commerce, Trade and Local Government)

#### Adopted Rules

141	283
-----	-----

#### Proposed Rules

143	559
-----	-----

### 22 Pa. Code (Education)

#### Adopted Rules

171	1645
-----	------

#### Proposed Rules

339	560
-----	-----

### 25 Pa. Code (Environmental Protection)

#### Adopted Rules

78	465
83	2636
93	1648
109	465
252	465
261a	705
901	2391
1021	709

#### Proposed Rules

121	715, 1991
126	715
127	1991
245 (with correction)	1851, 2016

### 28 Pa. Code (Health and Safety)

#### Adopted Rules

25	1218
----	------

### 31 Pa. Code (Insurance)

#### Proposed Rules

73	391
84a	392

### 34 Pa. Code (Labor and Industry)

#### Adopted Rules

3	514
3a	514

#### Proposed Rules

127	xxx
-----	-----

#### Statements of Policy

67	957
----	-----

### 37 Pa. Code (Law)

#### Adopted Rules

81	1495
----	------

#### Statements of Policy

200	957, 2282
-----	-----------

### 49 Pa. Code (Professional and Vocational Standards)

#### Adopted Rules

1	1496
17	532
19 (with correction)	536, 714
21	2396, 2402, 2667, 2673
27	2518
29	2675
39	2678
41	2680
45	1648

#### Proposed Rules

7	1229, 1231
16	1233, 2411
17	1233
18	2411
31	578, 1240
36	2530

### 52 Pa. Code (Public Utilities)

#### Adopted Rules

1	2097, 2281
3	2097, 2281
5	2097, 2281
62	1748

#### Proposed Rules

54	956
57	956
63	1044, 1886, 1897
75	571, 942
64	1897
71	1897
73	1897

#### Proposed Statements of Policy

69	824
----	-----

### 55 Pa. Code (Public Welfare)

#### Adopted Rules

601	285
-----	-----

#### Proposed Rules

3270	2686
3280	2686

3290 ..... 2686  
 3300 ..... 2686

**58 Pa. Code (Recreation)  
 Adopted Rules**

63 ..... 1124, 1126  
 65 ..... 1126  
 141 ..... 1990  
 147 ..... 194

**Proposed Rules**

53 ..... 1220  
 61 ..... 1656, 2708  
 63 ..... 1220, 1655, 2708  
 65 ..... 1655, 1656, 2708  
 69 ..... 2708  
 71 ..... 1655  
 73 ..... 1655  
 77 ..... 1220  
 79 ..... 1220, 2724  
 131 ..... 12, 1498  
 139 ..... 12, 13  
 141 ..... 19, 20, 21, 22, 1400, 1498, 2529  
 143 ..... 23, 2727  
 147 ..... 23, 25, 26, 27, 1401  
 163 ..... 2173

**Temporary Regulations**

401 ..... 679, 909, 1347, 1577, 2615, 2899  
 405 ..... 2899  
 421 ..... 909, 2615, 2899  
 423 ..... 681, 1347  
 435 ..... 2615, 2900  
 437 ..... 909  
 440 ..... 679  
 441 ..... 679, 681, 909, 2899  
 463 ..... 1577  
 465 ..... 910, 1347, 1577  
 481 ..... 1347  
 492 ..... 1578  
 493 ..... 1578  
 494 ..... 1578, 2899  
 499 ..... 2615, 2899  
 503 ..... 2902  
 511 ..... 2905

**Statements of Policy**

465a ..... 919, 1586

**61 Pa. Code (Revenue)  
 Adopted Rules**

31 ..... 2525  
 46 ..... 2525  
 60 ..... 2525  
 111 ..... 822  
 875 ..... 2406

**Statements of Policy**

125 (with correction) ..... 959, 1130  
 170 ..... 1403

**67 Pa. Code (Transportation)  
 Adopted Rules**

63 ..... 2684  
 86 ..... 1128  
 201 ..... 537  
 203 ..... 537  
 204 ..... 537  
 211 (with correction) ..... 537, 714  
 212 ..... 537  
 217 ..... 537

**Proposed Rules**

105 ..... 12

**204 Pa. Code (Judicial System General Provisions)  
 Adopted Rules**

71 ..... 1642  
 81 ..... 173  
 83 ..... 1490, 1642, 1745  
 85 ..... 929  
 87 ..... 929  
 89 ..... 2368  
 91 ..... 929, 1490  
 93 ..... 929, 1490, 2368  
 207 ..... 1491

**Proposed Rules**

81 ..... 2801  
 83 ..... 1363, 2801

**207 Pa. Code (Judicial Conduct)  
 Adopted Rules**

21 ..... 1213  
 51 ..... 1367

**210 Pa. Code (Appellate Procedure)  
 Adopted Rules**

67 ..... 1745, 2171

**225 Pa. Code (Rules of Evidence)  
 Adopted Rules**

ART. I ..... 384  
 ART. IV ..... 384, 1213

**231 Pa. Code (Rules of Civil Procedure)  
 Adopted Rules**

200 ..... 272, 1745  
 1000 ..... 1745  
 1300 ..... 174, 693, 2629  
 1350 ..... 693  
 1400 ..... 693  
 1480 ..... 693  
 1900 ..... 2369  
 1910 ..... 2629  
 3000 ..... 176

**Proposed Rules**

200 ..... 272, 934  
 1000 ..... 510  
 1900 ..... 1369  
 1910 ..... 10, 273, 385, 1381  
 1920 ..... 273  
 1930 ..... 693  
 2250 ..... 272  
 3000 ..... 386

**234 Pa. Code (Rules of Criminal Procedure)  
 Adopted Rules**

1 ..... 181, 694  
 3 ..... 1385  
 4 ..... 1385, 1396  
 5 ..... 181, 694, 1385, 1397, 2279, 2631  
 6 ..... 1385  
 7 ..... 1396  
 10 ..... 1385, 2631

**Proposed Rules**

4 ..... 2505  
 5 ..... 814



**237 Pa. Code (Juvenile Rules)**

**Adopted Rules**

1 ..... 186  
3 ..... 186  
6 ..... 186  
8 ..... 186

**249 Pa. Code (Philadelphia Rules)**

Unclassified ..... 188, 512, 815, 1643, 1843, 1846

**255 Pa. Code (Local Court Rules)**

Unclassified ..... 189, 388, 512, 935, 1043,  
1216, 1399, 1491, 1644, 1850, 1986, 2171, 2280, 2381,  
2512, 2513

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CHS. 81 AND 83]

#### Amendments to the Pennsylvania Rules of Professional Conduct and the Pennsylvania Rules of Disciplinary Enforcement Relating to Safekeeping Property and Funds of Clients and Third Persons—Mandatory Overdraft Notification

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to the Pennsylvania Supreme Court that it amend the Pennsylvania Rules of Professional Conduct, as set forth in Annex A, and the Pennsylvania Rules of Disciplinary Enforcement, as set forth in Annex B. The amendments to Rules 1.15 and 221 include definitions which are intended to make them consistent with the Regulations of the IOLTA Board. Rule 1.15 also provides that all Fiduciary Funds shall be invested in a Trust Account or in another investment which satisfies the requirements of the Prudent Investor Rule as set forth in the Pennsylvania Probate, Estates and Fiduciaries Code and this Rule.

Interested persons are invited to submit written comments regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before July 3, 2006.

*By The Disciplinary Board of the  
Supreme Court of Pennsylvania*

ELAINE M. BIXLER,  
*Secretary*

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart A. PROFESSIONAL RESPONSIBILITY

#### CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

##### Subchapter A. RULES OF PROFESSIONAL CONDUCT

#### § 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

#### CLIENT-LAWYER RELATIONSHIP

#### Rule 1.15. Safekeeping Property.

(a) The following definitions are applicable to Rule 1.15:

(1) *Eligible Institution.* An Eligible Institution is a bank, bank and trust company, trust company, credit union, savings bank, savings and loan association or foreign banking corporation authorized by federal or state law to do business in the Commonwealth of Pennsylvania, the deposits of which are insured by an agency of the federal

government, or is an open end investment company registered with the Securities and Exchange Commission authorized by federal or state law to do business in the Commonwealth of Pennsylvania.

(2) *Fiduciary.* A fiduciary is a lawyer acting as a personal representative, guardian, conservator, receiver, trustee, or other position requiring the lawyer to safeguard the property of another.

(3) *Fiduciary Funds.* Fiduciary Funds are Rule 1.15 Funds which the lawyer holds as a fiduciary.

(4) *IOLTA Account.* An IOLTA Account is a Trust Account, as defined by the Pennsylvania Interest on Lawyers Trust Account Board, at an Eligible Institution from which funds may be withdrawn upon request as soon as permitted by law. Only Qualified Funds are to be held or deposited in an IOLTA Account. An IOLTA Account must be interest or dividend bearing unless an exemption is granted by the IOLTA Board.

(5) *IOLTA Board.* The IOLTA Board is the Pennsylvania Interest on Lawyers Trust Account Board.

(6) *Non-IOLTA Account.* A Non-IOLTA Account is a Trust Account which is an interest or dividend bearing account from which funds may be withdrawn upon request as soon as permitted by law at an Eligible Institution in which a lawyer deposits Rule 1.15 Funds. Only Nonqualified Funds are to be held or deposited in a Non-IOLTA Account. A Non-IOLTA Account shall be established only as: (i) a separate client Trust Account for the particular client or matter on which the net interest or dividend will be paid to the client or third person, or (ii) a pooled client Trust Account with sub-accounting by the Eligible Institution or by the lawyer, which will provide for computation of net interest or dividend earned by each client or third person's funds and the payment thereof to the client or third person.

(7) *Nonqualified Funds.* Nonqualified Funds are Rule 1.15 Funds, whether cash, check, money order or other negotiable instrument which are not Qualified Funds.

(8) *Qualified Funds.* Qualified Funds are Rule 1.15 funds which are nominal in amount or are reasonably expected to be held for such a short period of time that sufficient interest income will not be generated to justify the expense of administering a segregated account.

(9) *Rule 1.15 Funds.* Rule 1.15 Funds are funds which the lawyer receives in connection with a client-lawyer relationship, funds which the lawyer receives under circumstances described in Rule 5.7(a), (b), or (c), and funds which the lawyer receives in any other fiduciary capacity.

(10) *Trust Account.* A Trust Account is an account in an Eligible Institution, as that term is defined in Rule 221 of the Pennsylvania Rules of Disciplinary Enforcement, in which a lawyer holds Rule 1.15 Funds. A Trust Account must be maintained either as an IOLTA Account or as a Non-IOLTA Account.

(b) A lawyer shall hold all Rule 1.15 Funds and all other property of clients or third persons that [ is ] are in a lawyer's possession in connection with a client-lawyer

relationship **or in a fiduciary capacity** separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded. Complete records of the receipt, maintenance and disposition of such property shall be preserved for a period of five years after termination of the client-lawyer relationship or after distribution or disposition of the property, whichever is later.

**[(b) ] (c) Upon receiving Rule 1.15 Funds or any other property of a client or third person in connection with a client-lawyer relationship or in a fiduciary capacity, a lawyer shall promptly notify the client or third person. Upon receiving Fiduciary Funds or any other property in a fiduciary capacity, a lawyer shall promptly comply with applicable requirements of the Pennsylvania Probate Estate and Fiduciaries Code, the Pennsylvania Supreme Court Orphans' Court Rules, and applicable Orphans' Court Rules of the county which has jurisdiction of the matter.**

**(d) Except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding [such ] the property, including Rule 1.15 Funds.**

**(e) A lawyer shall maintain the following books and records for each Trust Account:**

**(i) bank statements and check registers (which shall include the payee, date, amount and the client matter involved);**

**(ii) all transaction records provided to a lawyer by the Eligible Institution, such as canceled checks and records of electronic transactions;**

**(iii) records of deposits and a ledger separately listing each deposited item and the client or third person for whom the deposit is being made.**

The records required by this Rule may be maintained in electronic or other form if they can be retrieved in printed hard copy. Electronic records must be regularly backed up by an appropriate storage device.

**[(c) When in connection with a client-lawyer relationship a lawyer is in possession of ] (f) When in possession of Rule 1.15 Funds or property in which two or more persons, one of whom may be the lawyer, claim an interest, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property, including Rule 1.15 Funds, as to which the interests are not in dispute.**

**[(d) In those parts of this Rule dealing with funds of clients or third persons which the lawyer receives in connection with a client-lawyer relationship, excluding funds which the lawyer receives while acting as fiduciary for an estate, trust, guardianship or conservatorship, the following definitions are applicable:**

**(1) Trust Account means an interest-bearing account in a financial institution, as defined in Rule of Disciplinary Enforcement 221, in which the lawyer deposits such funds.**

**(2) Qualified Funds means such funds when they are nominal in amount or are reasonably expected**

**to be held for such a short period of time that sufficient interest income will not be generated to justify the expense of administering a segregated account.**

**(3) Nonqualified Funds means all other such funds.**

**(4) An Interest on Lawyer Trust Account (IOLTA Account) is an unsegregated interest bearing Trust Account with a financial institution for the deposit of Qualified Funds by a lawyer.**

**(5) The IOLTA Board means the Pennsylvania Interest on Lawyers Trust Account Board.**

**(e) ] (g) The responsibility for identifying an account as a Trust Account shall be that of the lawyer in whose name the account is held. [A lawyer shall not deposit the lawyer's own funds in a Trust Account except for the sole purpose of paying bank services charges on that account, and only in an amount necessary for that purpose. A lawyer shall deposit into a Trust Account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the client gives informed consent, confirmed in writing, to the handling of fees and expenses in a different manner.] At all times while a lawyer holds [funds of a client or third person in connection with a client-lawyer relationship, ] Rule 1.15 Funds the lawyer shall also maintain another account that is not used to hold such funds.**

**(h) A lawyer shall not deposit the lawyer's own funds in a Trust Account except for the sole purpose of paying bank services charges on that account, and only in an amount necessary for that purpose.**

**(i) A lawyer shall deposit into a Trust Account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the client gives informed consent, confirmed in writing, to the handling of fees and expenses in a different manner.**

**[(f) ] (j) All Nonqualified Funds which are not Fiduciary Funds shall be placed in a Trust Account or in another investment vehicle specifically agreed upon by the lawyer and the client or third person which owns the funds.**

**(k) All Fiduciary Funds shall be invested in a Trust Account or in another investment which satisfies the requirements of the Prudent Investor Rule as set forth in the Pennsylvania Probate, Estates and Fiduciaries Code and this Rule.**

**[(g) ] (l) All Qualified Funds shall be placed in an IOLTA Account. [The rate of interest payable on an IOLTA Account shall not be less than the highest rate or dividend generally available from the financial institution to its non-IOLTA Account customers when the IOLTA Account meets or exceeds the same minimum balance and other account eligibility qualifications applicable to those other accounts. In no event shall the rate of interest payable on an IOLTA Account be less than the rate paid by the financial institution on negotiable order of withdrawal accounts (NOW) or super negotiable order of withdrawal accounts.] An account shall not be**

considered an IOLTA Account unless the financial institution at which the account is maintained shall:

\* \* \* \* \*

**(m) The rate of interest or dividend payable on an IOLTA Account must be no less than the highest interest rate or dividend generally available from the Eligible Institution to its non-IOLTA customers when the IOLTA Account meets the same minimum balance or other eligibility qualifications. Interest or dividends and fees on the account shall be calculated in accordance with the Eligible Institution's standard practice, but Eligible Institutions may elect to pay a higher interest or dividend rate and may elect to waive any and all fees on IOLTA accounts.**

**[(h) A lawyer shall be exempt from the requirement that all Qualified Funds be placed in an IOLTA Account only upon exemption requested and granted by the IOLTA Board.] (n) A lawyer shall be exempt from the requirement that a Trust Account be income producing only upon exemption requested and granted by the IOLTA Board. If an exemption is granted, the lawyer must hold Rule 1.15 Funds, including Qualified Funds, in a Trust Account. Exemptions shall be granted if: (1) the nature of the lawyer's practice does not require the routine maintenance of a Trust Account in Pennsylvania; (2) compliance with this paragraph would work an undue hardship on the lawyer or would be extremely impractical, based either on the geographical distance between the lawyer's principal office and the closest [financial institution] Eligible Institution, or on other compelling and necessary factors; or (3) the lawyer's historical annual Trust Account experience, based on information from the [financial institution] Eligible Institution in which the lawyer deposits funds, demonstrates the service charges on the account would significantly and routinely exceed any [interest] income generated.**

**[(i) (o) \* \* \***

**[(j) (p) \* \* \***

\* \* \* \* \*

**[(k) (q) \* \* \***

\* \* \* \* \*

**[(l) (r) \* \* \***

**Comment**

**[(1)] A lawyer should hold property of others with the care required of a professional fiduciary. The obligations of a lawyer under this Rule apply when the lawyer has come into possession of property of clients or third persons because the lawyer is acting or has acted as a lawyer in a client-lawyer relationship [with some person] or because the lawyer is acting in a fiduciary capacity. Securities should be kept in a safe deposit box, except when some other form of safekeeping is warranted by special circumstances. All property which is the property of clients or third persons, including prospective clients, must be kept separate from the lawyer's business and personal property and, if [monies] Rule 1.15 Funds, in one or more Trust Accounts. The responsibility for identifying an account as a Trust Account shall be that of the lawyer in whose name the account is held. Whenever a lawyer holds [funds of a client or third**

**person] Rule 1.15 Funds, the lawyer must maintain at least two accounts: one in which those funds are held and another in which the lawyer's own funds may be held. A lawyer should maintain on a current basis books and records in accordance with sound [accounting] book-keeping practices consistently applied and comply with any recordkeeping rules established by law or court order.**

**(2) [The following books and records shall be maintained for each Trust Account:**

**(i) bank statements and check registers (which shall include the payee, date, amount and the client matter involved);**

**(ii) all transaction records returned by the financial institution, including canceled checks in whatever form and records of electronic transactions;**

**(iii) records of deposits and a ledger separately listing each deposited item and the client or third person for whom the deposit is being made.**

**(3) The records required by this Rule may be maintained in electronic or other form if they can be retrieved in printed hard copy. Electronic records must be regularly backed up by an appropriate storage device.**

**(4) ] While normally it is impermissible to commingle the lawyer's own funds with client funds, paragraph [(e) (h) provides that it is permissible when necessary to pay [bank] service charges on that account. Accurate records must be kept regarding that part of the funds which are the lawyer's.**

**[(5) (3) \* \* \***

**[(6) Paragraph (c) also recognizes that third] (4) Third parties may have lawful claims against specific funds or other property in a lawyer's custody such as a client's creditor who has a lien on funds recovered in a personal injury action. A lawyer may have a duty under applicable law to protect such third-party claims against wrongful interference by the client. In such cases, when the third party claim is not frivolous under applicable law, the lawyer must refuse to surrender the property to the client unless the claims are resolved. A lawyer should not unilaterally assume to arbitrate a dispute between the client and the third party. When there are substantial grounds for dispute as to the person entitled to the funds, the lawyer may file an action to have a court resolve the dispute.**

**[(7) (5) Other applicable law may impose pertinent obligations upon a lawyer independent of [any] and in addition to the obligations arising from this Rule. For example, a lawyer who serves only as an escrow agent is governed by the law relating to fiduciaries even though the lawyer does not render legal service in the transaction [and is not governed by this Rule]. A lawyer who receives funds while serving as [an executor or trustee] a fiduciary remains subject to the formal accounting procedures and other [supervision of the Orphans Court; when such funds are nominal in amount or reasonably expected to be held for such a short period that sufficient interest will not be generated to justify maintaining a segregated account such funds] requirements of the Pennsylvania Probate Estates and Fiduciaries Code and applicable Orphans' Court Rules. When the lawyer reasonably expects that the funds cannot earn**

income for the client or third person in excess of the cost incurred to secure such income while the funds are held, the lawyer may, in the discretion of the lawyer, [ be deposited ] deposit the funds into the IOLTA account of the lawyer [ even though such deposit is not required ]. Without limitation, a lawyer may also have obligations with respect to funds held under the Social Security Act and the Real Estate Licensure Act.

[ (8) ] (6) \* \* \*

[ (9) Paragraphs (g) through (l) provide ] (7) Rule 1.15 provides, inter alia, for the Interest on Lawyer Trust Account (IOLTA) program, and the definitions in [ paragraph (d) ] the Rule distinguish two types of funds of clients and third persons held by a lawyer: Qualified Funds, which must be placed in an IOLTA account, and Nonqualified Funds, which are to be placed in an interest or dividend bearing account unless the client or third person specifically agrees to another investment vehicle for the benefit of the client or third person. All Nonqualified Funds must be held or invested in accordance with all provisions of applicable law pertaining to those funds. For example, funds which the lawyer holds as a fiduciary must be deposited or invested in accordance with the relevant provisions of the Pennsylvania Probate, Estates, and Fiduciaries Code. There are further instructions in Rules 219 and 221 of the Pennsylvania Rules of Disciplinary Enforcement and in the Regulations of the Interest on Lawyers Trust Account Board, 204 Pa. Code, § 81.01 et seq., which are referred to as the IOLTA Regulations.

#### Annex B

##### Subpart B. DISCIPLINARY ENFORCEMENT

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

##### Subchapter B. MISCONDUCT

**Rule 221. Funds of clients and third persons. Mandatory overdraft notification.**

(a) For purposes of this rule [ , a ]:

(1) *Trust Account.* A Trust Account [ of an attorney ] is an account in an Eligible Institution in which an attorney [ , in accordance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct, deposits funds received from a client or a third person in connection with a client-lawyer relationship, excluding funds which the attorney receives while acting as fiduciary for an estate, trust, guardianship or conservatorship ] holds Rule 1.15 Funds. A Trust Account must be maintained either as an IOLTA Account or as a Non-IOLTA Account.

(2) *Eligible Institution.* An Eligible Institution is a bank, bank and trust company, trust company, credit union, savings bank, savings and loan association or foreign banking corporation authorized by federal or state law to do business in the Commonwealth of Pennsylvania, the deposits of which are insured by an agency of the federal government, or is an open end investment company registered with the Securities and Exchange Commission authorized by federal or state law to do business in the Commonwealth of Pennsylvania.

(3) *Rule 1.15 Funds.* Rule 1.15 Funds are funds which the lawyer receives in connection with a client-lawyer relationship, funds which the lawyer receives under circumstances described in Rule of Professional Conduct 5.7(a), (b), or (c), and funds which the lawyer receives in a fiduciary capacity. Rule 1.15 Funds include funds received as an escrow agent or as a settlement agent.

(b) An attorney shall maintain a Trust Account with respect to his/her practice in this Commonwealth only in [ a financial institution ] an Eligible Institution approved by the Supreme Court of Pennsylvania for the maintenance of such accounts. Subject to the provisions set forth herein, the Disciplinary Board shall establish regulations governing approval and termination of approval for [ financial institutions ] Eligible Institutions, shall make appropriate recommendations to the Supreme Court of Pennsylvania concerning approval and termination, and shall periodically publish a list of approved financial institutions.

[ (c) A financial institution shall be approved as a depository for Trust Accounts of attorneys if it shall file with the Disciplinary Board an agreement (in a form provided by the Board) to make a prompt report to the Lawyers Fund for Client Security Board whenever any check or similar instrument is presented against a Trust Account when such account contains insufficient funds to pay the instrument, regardless of

(1) whether the instrument is honored, or

(2) whether funds are subsequently deposited that cover the overdraft or the dishonored instrument is made good.

(d) For purposes of this Rule, a Trust Account shall not be deemed to contain insufficient funds to pay a check or similar instrument solely because it contains insufficient collected funds to pay the instrument, and no report shall be required in the case of an instrument presented against uncollected or partially uncollected funds. This provision shall not be deemed an endorsement of the practice of drawing checks against uncollected funds.

(e) The term "financial institution" means banks, bank and trust companies, trust companies, savings and loan associations, credit unions, savings banks or foreign banking corporations, whether incorporated, chartered, organized or licensed under the laws of the Commonwealth of Pennsylvania or the United States, doing business in Pennsylvania and insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration or an alternative share insurer.

(f) ] (c) \* \* \*

[ (g) The ] (d) An attorney shall maintain the following books and records [ shall be maintained ] for each Trust Account:

(1) [ bank statements and check registers (which shall include the payee, date, amount and the client matter involved) ] periodic bank or financial statements and all transaction records provided to the attorney by the Eligible Institution, such as canceled checks and records of electronic transactions;

(2) [ all transaction records returned by the financial institution, including canceled checks in

whatever form and records of electronic transactions] check registers or separately maintained ledger (which shall include the payee, date and amount of each check, withdrawal and transfer and the matter involved); and

(3) records of deposits and a ledger separately listing each deposited item [ and ] the client or third person for whom the deposit is being made, and the source of each deposited item.

[ (h) ] (e) \* \* \*

[ (i) ] (f) The records required by this rule may be subject to subpoena and must be produced in connection with an investigation or hearing pursuant to these rules. Failure to produce such records may result in the initiation of proceedings pursuant to Rule 208(f) (relating to emergency temporary suspension orders and related relief), which permits disciplinary counsel to commence a proceeding for the temporary suspension of a respondent-attorney who refuses to comply with a valid subpoena.

(g) An Eligible Institution shall be approved as a depository for Trust Accounts of attorneys if it shall be in compliance with applicable provisions of Rule 1.15 of the Pennsylvania Rules of Professional Conduct and the Regulations of the IOLTA Board and shall file with the Disciplinary Board an agreement (in a form provided by the Board) to make a prompt report to the Lawyers Fund for Client Security Board whenever any check or similar instrument is presented against a Trust Account when such account contains insufficient funds to pay the instrument, regardless of

- (1) whether the instrument is honored, or
- (2) whether funds are subsequently deposited that cover the overdraft or the dishonored instrument is made good.

(h) For purposes of this rule:

(1) A Trust Account shall not be deemed to contain insufficient funds to pay a check or similar instrument solely because it contains insufficient collected funds to pay the instrument, and no report shall be required in the case of an instrument presented against uncollected or partially uncollected funds. This provision shall not be deemed an endorsement of the practice of drawing checks against uncollected funds.

[ (j) For purposes of this rule, funds ] (2) Funds deposited in an account prior to the close of business on the calendar date of presentation of an instrument shall be considered to be in the account at the close of business on that date notwithstanding the [ financial institution's ] treatment of such funds by the Eligible Institution, for other purposes, as being received at the opening of the next banking day pursuant to 13 Pa.C.S. § [ 4107 ] 4108(b) (relating to items or deposits received after cutoff hour).

[ (k) For purposes of this rule, a ] (3) A check or draft against a Trust Account shall be deemed to be presented at the close of business on the date of presentation.

[ (l) ] (i) No report need be made when the [ financial institution ] Eligible Institution determines that the instrument presented against insufficient funds had been issued in reliance on a deposited instrument that was ultimately dishonored. This provision shall not be deemed an endorsement of the practice of drawing checks against uncollected funds.

[ (m) ] (j) A failure on the part of [ a financial institution ] an Eligible Institution to make a report called for by this rule may be cause for termination of approval by the Supreme Court, but such failure shall not, absent gross negligence, give rise to a cause of action, by any person who is proximately caused harm thereby.

[ (n) Financial institutions ] (k) Eligible Institutions shall be immune from suit for the filing of any reports required by this Rule or believed in good faith to be required by this Rule.

[ (o) A financial institution ] (l) An Eligible Institution shall be free to impose a reasonable service charge upon the attorney in whose name the account is held for the filing of the report required by this rule.

[ (p) ] (m) \* \* \*

[ (q) ] (n) \* \* \*

[ (r) ] (o) \* \* \*

[Pa.B. Doc. No. 06-1020. Filed for public inspection June 9, 2006, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Suspension

Notice is hereby given that by Order of the Supreme Court of Pennsylvania issued May 25, 2006, William A. Walsh is suspended from the practice of law for a period of one year and one day. 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. 06-1021. Filed for public inspection June 9, 2006, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending May 30, 2006.

#### BANKING INSTITUTIONS

##### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
5-26-06	F.N.B. Corporation, Hermitage, to acquire 100% of the voting shares of The Legacy Bank, Harrisburg, and The Legacy Trust Company, Harrisburg	Hermitage	Effective
Subsequent to consummation of the previously noted acquisition, The Legacy Bank and The Legacy Trust Company were merged with and into the First National Bank of Pennsylvania, Greenville, and the First National Trust Company, Hermitage, respectively, both subsidiaries of F.N.B. Corporation.			
5-30-06	Franklin Financial Services Corporation, Chambersburg, to acquire 100% of the voting shares of Fulton Bancshares Corporation, McConnellsburg	Chambersburg	Approved

##### New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-23-06	Centra Bank-Smithfield Smithfield Fayette County	Smithfield	Filed
Application represents an interim charter being formed solely to facilitate the acquisition of Smithfield State Bank of Smithfield, PA, Smithfield, PA, by Centra Financial Holdings, Inc., Morgantown, WV.			
5-26-06	Hyperion Bank Philadelphia Philadelphia County	Philadelphia	Approved

##### Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-22-06	Omega Bank, N.A. State College Centre County <i>To:</i> Omega Bank State College Centre County	State College	Filed
Application represents conversion from a Nationally-chartered banking association to a State-chartered commercial bank.			

##### Bank Holding Company Reorganization

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-25-06	Berkshire Bank, Wyomissing, and Berkshire Interim Bank, Wyomissing Surviving Institution— Berkshire Bank, Wyomissing	Wyomissing	Approved
Merger transaction being effected solely to facilitate the acquisition of Berkshire Bank, Wyomissing, by Berkshire Bancorp, Inc., a bank holding company in formation.			

**Absorptions, Mergers and Consolidations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-30-06	Farmers and Merchants Trust Company of Chambersburg, Chambersburg, and Fulton County National Bank and Trust Company, McConnellsburg Surviving Institution— Farmers and Merchants Trust Company of Chambersburg	Chambersburg	Approved

**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-17-06	Premier Bank Doylestown Bucks County	603 York Road Warminster Bucks County	Opened
5-23-06	Integrity Bank	100 Senate Avenue	Approved
5-24-06	Camp Hill Cumberland County	Camp Hill East Pennsboro Township Cumberland County	Opened

**Branch Relocations/Consolidations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-29-06	Irwin Bank & Trust Company Irwin Westmoreland County	<i>Into:</i> 9350 Lincoln Highway Irwin Westmoreland County	Effective
5-23-06	S&T Bank Indiana Indiana County	<i>From:</i> 8775 Norwin Avenue North Huntingdon Westmoreland County  <i>To:</i> Corner of Logan Boulevard and Dewey Street Altoona Blair County  <i>From:</i> 208 West Plank Road Altoona Blair County	Filed

**Articles of Amendment**

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
5-23-06	Wilmington Trust of Pennsylvania Villanova Delaware County	Amendment to Article II of the Articles of Incorporation provides for a change in the principal place of business to 797 East Lancaster Avenue from 795 East Lancaster Avenue, both addresses in Villanova, Delaware County.	Approved and Effective

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS****Branch Applications**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
5-30-06	Corry Jamestown Credit Union Corry Erie County	315 Main Street Spartansburg Crawford County	Filed

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

A. WILLIAM SCHENCK, III,  
Secretary

[Pa.B. Doc. No. 06-1022. Filed for public inspection June 9, 2006, 9:00 a.m.]



# DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Applications, Actions and Special Notices

### APPLICATIONS

#### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

#### APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

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

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

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

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

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

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

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

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

#### I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0064106 (Minor Sewage)	Benton-Nicholson Joint Sewer Authority P. O. Box 355 Factoryville, PA 18419	Wyoming County Nicholson Township	UNT to South Branch Tunkhannock Creek 4F	Y

## NOTICES

2809

Chesapeake Bay Strategy nutrient monitoring requirement was added to this permit.

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0061913	Elk Mountain Ski Resort, Inc. R. R. 2, Box 3328 Uniondale, PA 18470-9528	Herrick Township Susquehanna County	East Branch Tunkhannock Creek CWF 4F	Y

In accordance with the Chesapeake Bay Tributary Nutrient Reduction Strategy nutrient monitoring for Ammonia-N, Kjeldahl-N, Nitrite/Nitrate-N, Total Phosphorus and Total Nitrogen were added to Outfall 001 of this permit.

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA 0034088 Renewal	Oakwood Lake Associates 1 Mark Lane Honey Brook, PA 19344-8675	Tunkhannock Township Wyoming County	Swale Brook 04 F	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0020834 (Sew)	Greencastle Borough Authority 60 North Washington Street Greencastle, PA 17225	Franklin County Antrim Township	UNT to Conococheague 13-C	Y
PA0083054 (Sew)	All Seasons Hospitality, LLC 6512 Limerick Ct. Clarksville, MD 21029	Fulton County Brush Creek Township	Wildcat Hollow 11-C	Y
PA0007552 (IW)	Empire Kosher Poultry, Inc. R. R. 5, Box 228 Mifflintown, PA 17059-1203	Juniata County Walker Township	Juniata River 12-A	Y
PA0248223 (Sew)	Douglas and Jennie Elsasser P. O. Box 1 Cocolamus, PA 17014	Juniata County Fayette Township	UNT Cocolamus Creek 12-B	Y
PA0087165 (IW)	Bleyer Gift Packs, LLC 80 Voice Road Carle Place, NY 11514-1500	Huntingdon County Mount Union Borough	Juniata River 12-C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA02231123	Jonathan Bowser and Brenda McBride SFTF P. O. Box 679 North East, PA 16428	North East Township Erie County	Lake Erie 15	Y
PA0037397	Waterford Borough Municipal Authority 30 South Park Row Waterford, PA 16441	Waterford Township Erie County	LeBoeuf Creed 16-A	Y
PA0003026	U. S. Bronze Foundry and Machine, Inc. P. O. Box 458 Meadville, PA 16335	Woodcock Township Crawford County	French Creek and UNT to French Creek 16-D	Y
PA0103641	Orchard Terrace WWTP Wilmington Township Sewer Authority 669 Wilson Mill Road New Castle, PA 16105	Wilmington Township Lawrence County	UNT to Little Neshannock Creek 20-A	Y
PA0209996	Salvation Army Camp Allegheny 424 Third Avenue Pittsburgh, PA 15219	Wayne Township Lawrence County	Slippery Rock Creek 20-C	Y
PA0100021	River Forks Restaurant, Inc. HC3 Box 9 62S Tionesta, PA 16353	Tionesta Township Forest County	Allegheny River 16-E	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0035114	Torpedo Specialty Wire R. D. 2 Route 27 Pittsfield, PA 16350	Pittsfield Township Warren County	Gar Run 16-B	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.*

**PA0244091**, Industrial Waste, SIC 3823, **Patriot Sensors & Controls Corporation, Ametek Drexelbrook Division**, 205 Keith Valley Road, Horsham, PA 19044-1499. This existing facility is located in Horsham Township, **Montgomery County**.

Description of Proposed Activity: Issuance of NPDES permit for discharge of treated groundwater from a foundation groundwater trench to a stormsewer draining to Park Creek. Groundwater will be treated through a single activated carbon treatment unit prior to discharge.

The receiving stream, Park Creek, is in the State Water Plan watershed 2F and is classified for WWF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua PA, SE Division is located on Neshaminy Creek and is 25 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.009 mgd.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
1,1- Dichloroethene			0.002		0.005
1,1,1- Trichloroethane			0.0103		0.0258
Influent 1,1-Dichloroethene			Monitor		
Influent 1,1,1-Trichloroethane			Monitor		

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

1. Remedial Measures if Public Nuisance.
2. Change of Ownership.
3. Proper Sludge Disposal.
4. Monitor System.
5. Instantaneous Maximum Limitations.
6. Specification of Test Method.

The EPA waiver is in effect.

**PA0058912**, Industrial Waste, SIC 3273, **JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006. This proposed facility is located in New Hope Borough, **Bucks County**.

Description of Proposed Activity: Discharge of stormwater from a Ready-Mix Concrete Batch Plant.

The receiving stream, Delaware River via Pennsylvania Canal, is in the State Water Plan watershed 2E and is classified for: Special Protection Waters. The nearest downstream public water supply intake for Bucks County Water and Sewer Authority-Water Works is located on Delaware River and is 2 miles below the point of discharge.

The proposed effluent limits for Outfalls 001 and 002:

<i>Parameters</i>	<i>Concentration (mg/l)</i>		
	<i>Average Annual</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids (issuance through year 2) (year 3 through expiration)	Monitor and Report 50	Monitor and Report 100	Monitor and Report 100
pH (std) (issuance through year 2) (year 3 through expiration)	Monitor/Report within limits of 6 to 9 standard units	Monitor and Report	Monitor and Report at all times
Oil and Grease	Monitor and Report	Monitor and Report	Monitor and Report

In addition to the effluent limits, the permit contains the following major special conditions: stormwater outfall requirements.

**PA0040126**. Sewage. SIC: 4952. **Western Montgomery County Area Vocational Technical School**. 77 Graterford Road, Limerick, PA 19468.

Description of Activity: This application is for an existing sewage treatment facility serving Western Montgomery County Area Vocational Technical School to discharge sanitary effluent Local Creek.

The receiving waters, Lodal Creek is in the State Water Plan watershed 3E-Perkiomen and is classified for TSF, aquatic life, water supply and recreation. The nearest downstream public water intake/supply is Pennsylvania American Water Company and is approximately 4.5 miles downstream on Perkiomen Creek.

The effluent limits for Outfall 001 are based on a design flow of 11,700 gallons per day (gpd).

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Instantaneous Maximum mg/l</i>
Flow					
CBOD <sub>5</sub>					
(5-1 to 10-31)			10		20
(11-1 to 4-30)			20		40
Total Suspended Solids			10		20
Fecal Coliform			200/100 ml		Monitor and Report
Dissolved Oxygen			5.0		
pH (standard unit)			6.0 (Min.)		9.0
Ammonia as N					
(5-1 to 10-31)			3.0		6.0
(11-1 to 4-30)			6.0		12.0
Phosphorus as P					
(4-1 to 10-31)			2.0		4.0
Total Residual Chlorine			0.5		1.0

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

1. Discharge must not cause nuisance or health hazard.
2. Sludge disposal according to State and Federal regulations.

The EPA waiver is in effect.

**NPDES Permit No. PA0054810**, Sewage, SIC 4952. **Upper Frederick Township's Perkiomen Crossing Wastewater Treatment Plant**, 3205 Big Road, P. O. Box 597, Frederick, PA 19435. This facility is located on Valley Stream Drive, Upper Frederick Township, **Montgomery County**.

Description of Activity: Renewal of Sewage Treatment Plant's NPDES Permit to discharge treated sewage effluent to Goshenhoppen Creek.

The receiving water, Goshenhoppen Creek, is in the State Water Plan Watershed 3E-Perkiomen and is classified for TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua-PA is located on Perkiomen Creek and is approximately 12 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.048 mgd and will take effect beginning of permit term year 3.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	5.0			
Total Suspended Solids	10.0			
Ammonia as N	0.6			1.2
Phosphorus as P	0.24			0.48
Fecal Coliform	200#/100 ml			Monitor and Report
Dissolved Oxygen			6.0 (Minimum)	
pH (standard units)			within limits of 6.0 to 9.0	
NO <sub>2</sub> -N and NO <sub>3</sub> -N	10.0			20.0
Total Residual Chlorine	0.011			0.027

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

1. Discharge must not cause nuisance.
2. Dry stream discharge if discharge causes health hazard additional measures may be required.

**NPDES Permit No. PA0050393**, Sewage, SIC 4952, **Worcester Township Valley Green Wastewater Treatment Plant**, 1721 Valley Forge Road, P. O. Box 767, Worcester, PA 19490-0767. This facility is located at Valley Forge Road and Defford Road, Worcester Township, **Montgomery County**, PA.

Description of Activity: Renewal of Sewage Treatment Plant's NPDES Permit to discharge treated sewage effluent to Zacharias Creek.

The receiving water, Zacharias Creek, is in the State Water Plan Watershed 3E-Perkiomen and is classified for TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua-PA is located on Perkiomen Creek and is approximately 10 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.22 mgd.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10.0	15		20
Total Suspended Solids	20.0	30		40
Ammonia as N	2.0	3.0		4.0
Phosphorus as P	0.61			1.0

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Fecal Coliform*	200 #/100 ml			Monitor and Report
Dissolved Oxygen			6.0 (Minimum)	
pH (standard units)			within limits of 6.0 to 9.0	
*Ultra-Violet Disinfection.				

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

1. Discharge must not cause nuisance.
2. Small stream discharge if discharge causes health hazard additional measures may be required.
3. Proper sludge disposal.

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

**PA-0012394, Industrial, Patterson-Kelly Company, Division of Harsco Corporation**, 100 Burson Street, East Stroudsburg, PA 18301. This proposed facility is located in East Stroudsburg Borough, **Monroe County**.

Description of Proposed Activity: The receiving stream, Sambo Creek, is in the State Water Plan watershed 1E and is classified for CWF. The nearest downstream public water supply intake for City of Easton is located on Delaware River over 25 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0104.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
PH				6 to 9 standard units
TSS				100
Oil and Grease			15	

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

**Application No. PA 0087980**, Concentrated Animal Feeding Operation (CAFO), **Allen Rice and Brian Brechbill (Dream Farms)**, 13689 Dream Highway, Newburg, PA 17240.

Allen Rice and Brian Brechbill have submitted an application for reissuance of an Individual NPDES permit for an existing CAFO known as Dream Farms, located in Lurgan Township, **Franklin County**.

The CAFO is situated near UNTs of Conodoguinet Creek 7-B, which are classified for WWF. The CAFO is designed to maintain an animal population of approximately 2,295 animal equivalent units (AEUs) consisting of 1,800 mature heifers and 1,800 young heifers. Manure is stored in an existing two-stage clay-lined manure storage impoundment system with an effective capacity of approximately 10.5 million gallons. A release or discharge to waters of this Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protection (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 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 previous 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. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

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 0028142, Amendment No. 1**, Sewage, **Pennsylvania National Guard**, Fort Indiantown Gap, Building No. 0-11, Annville, PA 17003-4002. This facility is located in East Hanover Township, **Lebanon County**.

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

The receiving stream, Swatara Creek, is in Watershed 7-D and classified for WWF, 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 1.0 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
NH <sub>3</sub> -N (5-1 to 10-31)	12	24
(11-1 to 4-30)	Monitor and Report	Monitor and Report
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 (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	11,000/100 ml as a geometric average	

In addition to the effluent limits, the permit contains the following major special conditions: A total annual load limit of 24,353 pounds of total nitrogen and 3,044 pounds of total phosphorus will become effective on April 1, 2007.

Person 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 0248169**, Sewage, **Little Washington Wastewater Co., Inc.** (Preserve at Plum Run STP), 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. This facility is located in Cumberland Township, **Adams County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, Plum Run, is in Watershed 13-D and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for the City of Frederick, MD is located on the Monocacy River, approximately 36 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0175 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
NH <sub>3</sub> -N (5-1 to 10-31)	6.5	13
(11-1 to 4-30)	19.5	39
Total Phosphorus	2.0	4.0
Total Residual Chlorine	0.5	1.6
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)	10,000/100 ml as a geometric average	

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

The EPA waiver is in effect.

**Application No. PA 0088285**, Concentrated Animal Feeding Operation (CAFO), **Kreider Farms**, 1461 Lancaster Road, Manheim, PA 17545. Kreider Farms has submitted an application for reissuance of an Individual NPDES permit for its home dairy and poultry farm located in Penn Township, **Lancaster County**.

The CAFO is situated near a UNT of Chiques Creek, which is classified as a WWF. The CAFO is designed to maintain an animal population of approximately 5,605 animal equivalent units consisting of 1,600 adult milking and dry cows, 1,360 heifers, 813,000 laying hens and 75,000 pullets. Poultry manure is stored in the layer houses, solid dairy manure is composted, and liquid dairy manure is stored in a 3-stage manure storage system with a storage capacity of over 15 million gallons. A release or discharge to waters of this Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protections (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. Persons may make an appointment to review the 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 previous 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. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

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 0008281**, industrial waste, sewage and stormwater, **PPL Brunner Island, LLC (Brunner Island Steam Electric Station)**, Two North Ninth Street, GENPL-6, Allentown, PA 18101-1179. This facility is located in East Manchester Township, **York County**.

Description of activity: The Department of Environmental Protection, Southcentral Regional Office Water Management Program, is proposing to revoke NPDES Permit No. PA 0008281 from PPL Brunner Island, LLC for the Brunner Island Steam Electric Station and reissue the permit with a new 5-year term. The reissued permit will require the construction and operation of a cooling system necessary to provide for a balanced indigenous aquatic community in the Susquehanna River downstream from the existing cooling water discharge.

The receiving streams, Susquehanna River, Conewago Creek and Hartman Run are in Watersheds 7-F and 7-H and is classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Wrightsville Water Supply Co. is located on the Susquehanna River, approximately 10 miles downstream.

The proposed final effluent limits for Outfall 001 (noncontact cooling water) for a design flow of 795 mgd, following construction of the cooling system are:

<i>Parameter</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Plant Intake Temperature (°F)	Monitor and Report	Monitor and Report	
Effluent Temperature (°F)	Monitor and Report	Monitor and Report	110
Heat Rejection Rate (mBtus/day) (12-1 to 2-29)	Monitor and Report	167,040	
Heat Rejection Rate (mBtus/day) (3-1 to 4-30, 11-1 to 11-30)	Monitor and Report	91,870	
Heat Rejection Rate (mBtus/day) (5-1 to 5-31, 10-1 to 10-31)	Monitor and Report	83,520	
Heat Rejection Rate (mBtus/day) (6-1 to 9-30)	Monitor and Report	75,170	
Hourly Heat Rejection Rate Change (mBtus/hr)			2,210
Total Residual Chlorine (mg/l)	Monitor and Report	Monitor and Report	0.2
Total Residual Bromine (mg/l)	Monitor and Report	Monitor and Report	
Trihalomethanes (mg/l)	Monitor and Report	Monitor and Report	
pH (standard unit)		from 6.0 to 9.0 inclusive	

The proposed effluent limits for Outfall 002 (incidental waste treatment basin discharge) for a design flow of 2.0 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Oil and Grease	15	20	30
Total Suspended Solids	Monitor and Report		50
Total Lead		Monitor and Report	
Total Mercury		Monitor and Report	
Total Zinc		Monitor and Report	
pH (standard unit)		from 6.0 to 9.0 inclusive	

The proposed effluent limits for Outfall 003 (sewage effluent discharge) for a design flow of 0.032 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
Total Phosphorus	2.0		4.0
Fecal Coliform (5-1 to 10-31) (11-1 to 4-30)		200/100 ml as geometric mean 100,000/100 ml as geometric mean	
NH <sub>3</sub> -N	Monitor and Report		
Total Nitrogen	Monitor and Report		

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine	1.0	Monitor and Report	2.0
Dissolved Oxygen		minimum of 5.0 mg/l at all times	
pH (standard unit)		from 6.0 to 9.0 inclusive	

The proposed final effluent limits for Outfall 004 (Ash Basin No. 6 polishing pond discharge) for a design flow of 5.0 mgd, following installation of a filtration system, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Oil and Grease	15	20	30
Total Suspended Solids	10	20	25
Total Lead		Monitor and Report	
Total Mercury		Monitor and Report	
Total Zinc		Monitor and Report	
pH (standard unit)		from 6.0 to 9.0 inclusive	

The proposed effluent limits for Outfall 005 (equalization basin overflow) are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Oil and Grease		20	30
Total Suspended Solids			50
pH (standard unit)		from 6.0 to 9.0 inclusive	

The proposed monitoring requirements for Outfall 006 (groundwater discharge from ash basins) are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Iron		Monitor and Report	
Total Copper		Monitor and Report	
Total Lead		Monitor and Report	
Total Aresenic		Monitor and Report	
Total Zinc		Monitor and Report	
pH (standard unit)		Monitor and Report	

In addition to the effluent limits, the permit contains conditions concerning the construction and operation of the cooling system to reduce the temperature of noncontact cooling water, biological monitoring of the Susquehanna River, limitations on chemical additives, requirements for cooling water intake structures, installation of a filtration system for the Ash Basin No. 6 polishing pond, and monitoring requirements for stormwater outfalls.

Persons 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.

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

**PA0217166**, Sewage, **Kenneth W. Grey**, 13259 SR 422, Kittanning, PA 16201. This application is for renewal of an NPDES permit to discharge treated sewage from Grey's Colonial Manor Assisted Living STP in Kittanning Township, **Armstrong County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Cowanshannock Creek which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Kittanning Suburban Joint Water Authority on the Allegheny River.

*Outfall 001: existing discharge, design flow of 0.0014 mgd.*

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	10			20
Suspended Solids	10			20
Ammonia Nitrogen (5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Fecal Coliform				



<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	Monitor and Report			
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0218821**, Sewage, **Indiana County Municipal Services Authority**, 827 Water Street, Indiana, PA 15701. This application is for renewal of an NPDES permit to discharge treated sewage from Penn Run Sewage Treatment Plant in Cherryhill Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Penn Run, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: PA American Water Company.

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

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	5.0			10.0
(11-1 to 4-30)	15.0			30.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Dissolved Oxygen	not less than 4 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0218880**, Sewage, **HIS Enterprises**, 930 Merwin Road, New Kensington, PA 15068. This application is for renewal of an NPDES permit to discharge treated sewage from Morrow Mobile Home Park Sewage Treatment Plant in Upper Burrell Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Pucketa Creek which are classified as a TSF 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: Oakmont Borough Municipal Authority.

*Outfall 001*: existing discharge, design flow of 0.012 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	4.5			9.0
(11-1 to 4-30)	13.5			27.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.3			
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

**PA0026697**, Sewage. **Butler Area Sewer Authority**, 100 Littman Road, Butler, PA 16001-3256. This facility is located in the Butler Township, **Butler County**.

Description of Proposed Activity: Renewal of an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Beaver Falls Municipal Authority—Eastvale Plant intake is located on the Beaver River and is approximately 50 miles below the point of discharge.

The receiving streams, Connoquenessing Creek, Outfall 001 and Butchers Run, Outfalls 005, 011—014 and 018 are in watershed 20-C and classified for WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 10.0 mgd.

Parameters	Loadings		Concentrations		
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX	XX			
CBOD <sub>5</sub>					
(5-1 to 10-31)	1,001	1,501	12	18	24
(11-1 to 4-30)	2,002	3,002	24	36	48
Total Suspended Solids	2,502	3,753	30	45	60
NH <sub>3</sub> -N					
(5-1 to 10-31)	167		2		4
(11-1 to 4-30)	500		6		12
Cadmium, total					
(Interim)	XX		XX		
(Final)	42		0.5		1.0
Fecal Coliform					
(5-1 to 9-30)		200/100ml as a geometric average			
(10-1 to 4-30)		2,000/100ml as a geometric average			
Total Residual Chlorine			0.33		1.1
Dissolved Oxygen			minimum of 5 mg/l at all times.		
Phosphorus as "P"	167		2		4
pH			6.0 to 9.0 standard units at all times		

XX—Monitor and report on monthly DMRs.

Outfall 005 (Sewage Treatment Plant-Alternative Outfall)

The proposed discharge limits are based upon a design flow of N/A mgd.

This is for emergency use only.

Outfall No. 011 Lat: 40° 50' 29" Long: 79° 55' 06"

Outfall No. 012 Lat: 40° 50' 29" Long: 79° 55' 06"

Outfall No. 013 Lat: 40° 50' 27" Long: 79° 55' 00"

Outfall No. 014 Lat: 40° 50' 28" Long: 79° 54' 50"

Outfall No. 018 Lat: 40° 50' 28" Long: 79° 55' 50"

These discharges shall consist of uncontaminated stormwater runoff from the Sewage treatment plant site only.

#### *Permit Special Conditions*

1. Supersede previous WQM permit.
2. Continuation of a Federal Pretreatment Program.
3. TRC Minimization.
4. Chronic WET Testing.
5. WET testing for the permit renewal.
6. Stormwater.
7. SSO Condition
8. Toxics Reduction Evaluation for Cadmium

The EPA waiver is not in effect.

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

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

**WQM Permit No. 1506406**, Sewerage, **Downingtown Area Regional Authority**, 6 West Lancaster Avenue, Downingtown, PA 19335. This proposed facility is located in East Caln Township, **Chester County**.

Description of Action/Activity: Construction and operation of gravity thickener and sludge holding tanks.

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

**WQM Permit No. 2106401**, Sewerage, **Albert C. Kuhn**, P. O. Box 121, Carlisle, PA 17013. This proposed facility is located in North Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Application for approval to operate a small sewage treatment plant.

**WQM Permit No. 2106402**, Sewerage, **Steve Hurley**, 50 Frytown Road, Newville, PA 17241. This proposed facility is located in Upper Frankford Township, **Cumberland County**.

Description of Proposed Action/Activity: Application for approval to operate a small sewage treatment plant.

**WQM Permit No. 2106403**, Sewerage, **Steve Hurley**, 50 Frytown Road, Newville, PA 17241. This proposed facility is located in Upper Frankford Township, **Cumberland County**.

Description of Proposed Action/Activity: Application for approval to operate a small sewage treatment plant.

**WQM Permit No. 6706407**, Sewerage, **Springfield Township Sewer Authority**, 9211 Susquehanna Trail South, Seven Valleys, PA 17360. This proposed facility is located in Springfield Township, **York County**.

Description of Proposed Action/Activity: Application for treatment plant upgrade at the Hollow Creek WTP.

**WQM Permit No. 2106404**, Sewerage, **A.C. Kuhn & Son, Inc.**, Albert C. Kuhn, 608 Alexander Spring Road, Carlisle, PA 17013. This proposed facility is located in Dickinson Township, **Cumberland County**.

Description of Proposed Action/Activity: Application for construction/operation of warehouse facility on Lot No. 3 with a sewage treatment and subsurface disposal system.

**WQM Permit No. 5006401**, Sewerage, **Otterbein United Methodist Church of Duncannon**, 301 North High Street, Duncannon, PA 17020. This proposed facility is located in Penn Township, **Perry County**.

Description of Proposed Action/Activity: Application for construction/operation of a church facility and athletic field with a proposed Cromaglass sewage treatment plant.

**WQM Permit No. 2106405**, Sewerage, **Matt D. Madden**, 20 South Hanover Street, Carlisle, PA 17013. This proposed facility is located in North Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Application for construction/operation of a small flow sewage treatment facility to serve 0.85 acre of vacant lot along Shatto Drive in Kendor Summit Subdivision, Lot No. 22.

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

**WQM Permit No. 1169401-A3**, Sewerage, **Johnstown Redevelopment Authority**, 4th Floor, Public Safety Building, 401 Washington Street, Johnstown, PA 15901. This proposed facility is located in West Taylor Township, **Cambria County**.

Description of Proposed Action/Activity: Application for the addition of an additional 110 ft. diameter clarifier, return activated sludge building with pumps and a retaining wall at the existing Johnstown wastewater treatment plant.

**WQM Permit No. 1173402-A2**, Sewerage, **Glendale Yearound Sewer Company**, P. O. Box 89, 110 Troxell Spring Road, Flinton, PA 16640. This proposed facility is located in White Township, **Cambria County**.

Description of Proposed Action/Activity: Application for the construction and operation of a plant expansion to 127,500 gpd capacity.

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

**WQM Permit No. 2506407**, Sewerage, **Washington Township**, 11800 Edinboro Road, Edinboro, PA 16412. This proposed facility is located in Washington Township, **Erie County**.

Description of Proposed Action/Activity: This project is to modify an existing facility with a relocated discharge point to a UNT to Conneauttee Creek.

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

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

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

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## NOTICES

2819

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI012306003	Pennsylvania State University Delaware Campus Office of Physical Plant 101 P University Park, PA 16802	Delaware	Middletown Township	Rocky Run/Chester Creek HQ-CWF-MF
PAI010905005	George E. Michael Canal Street Project 328 South Main Street New Hope, PA 18938	Bucks	New Hope Borough	Aquetong Creek HQ-CWF
PAI010906012	Edward Stevenson Builders Lot 3 Aquetong Preserve P. O. Box 336 Bedminster, PA 18910	Bucks	Solebury Township	UNT Aquetong Creek HQ-CWF
PAI010906018	Park Ten Group 21337 Valley Forge Circle King of Prussia, PA 19406	Bucks	Sellersville Borough	East Branch Perkiomen Creek TSF
PAI012306005	Whitehorse Development Co. 950 West Valley Forge Road King of Prussia, PA 19406	Delaware	Newtown Township	UNT Crum Creek HQ-CWF
PAI015106001	County Builders Camelot Estates Development 76 Griffith Miles Circle Warminster, PA 18974	Philadelphia	City of Philadelphia	Poquessing Creek WWF
PAI011506036	Hofstad Builders, Inc. 600 South Five Points Road West Chester, PA 19382	Chester	West Caln Township	Indian Spring Run EV

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023906010	Bellante Properties 5050 Route 309 S. Center Valley, PA 18034	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF

*Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024806016	Spectrum Land Acquisitions, Inc. Attn: Ken Snyder 3312 Seventh St. Whitehall, PA 18052	Northampton	Bushkill Township	Monocacy Creek HQ-CWF

*Lackawanna County Conservation District: 1300 Old Plank Rd., Mayfield, PA 18433, (570) 281-9495.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023506002	Albert Sperry Sperry Homes, LLC R. R. 7 Box 7148 Lake Ariel, PA 18436	Lackawanna	Covington Township	Roaring Brook HQ-CWF

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


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

## 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.*

##### Permit No. 1506504, Public Water Supply

Applicant	<b>Aqua Pennsylvania, Inc.</b>
Township	Upper Uwchlan
County	<b>Chester</b>
Responsible Official	Joseph G. Thurwanger, P. E.
Type of Facility	PWS
Consulting Engineer	Aqua Pennsylvania, Inc.
Application Received Date	May 15, 2006
Description of Action	Construction of a 2.0 mg storage tank and booster station.

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

##### Application No., 2400036, Public Water Supply

Applicant	<b>Aqua PA, Inc.</b> Barrett Township <b>Monroe County</b>
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Responsible Official	Steve Clark/Roswell McMullen Aqua PA, Inc Palmyra Professional Center HCR 6, Box 6040 Hawley, PA 18428
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Type of Facility	PWS
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Consulting Engineer	Douglas Berg, P. E. Entech Engineering, Inc. 4 South Fourth Street Reading, PA 19603
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Application Received Date	05/04/06
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Description of Action	PWS application proposing corrosion control treatment for the Mountain Home Water System (PWS ID No. 2450039).
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<b>Permit No., 4806501, Public Water Supply</b>	
Applicant	<b>Nestle Waters North America Inc.</b> 405 Nestle Way Breinigsville, PA Washington Township <b>Northampton County</b>

Responsible Official	Bruce Lauerman Natural Resource Manager
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Type of Facility	Bulk Water Hauling
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Consulting Engineer	Edward E. Davis P. E. Forino Company LP 555 Mountain Home Road Sinking Spring, PA
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Application Received Date	04/17/06
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Description of Action	The addition of a new spring source, Borehole 2, at the frontier spring 2 (greenwaltz) bulk water loading facility.
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##### Permit No., 4506502, Public Water Supply

Applicant	<b>Mount Airy No. 1, LLC</b> Paradise Township <b>Monroe County</b>
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Responsible Official	Mount Airy No. 1, LLC c/o Robert McNichols, Site Manager 229 Main Street—Sturges Olyphant, PA 18447-2319
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Type of Facility	Replacement PWS System
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Consulting Engineer	Quad Three Group, Inc. 37 North Washington Street Wilkes-Barre, PA 18701
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Application Received Date	04/19/06
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Description of Action	Construction of a replacement public water supply to provide potable and fire protection needs of the proposed Mount Airy Lodge Resort and Casino and other future property. System to consist of two wells, treatment facilities, finished water storage and distribution.
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*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 2805501**, Public Water Supply.  
 Applicant **Washington Township Municipal Authority**  
 Municipality Washington Township  
 County **Franklin**  
 Responsible Official Eugene A. Barnhart, Manager  
 11102 Buchanan Trail East  
 Waynesboro, PA 17268-9424  
 Type of Facility Public Water Supply  
 Consulting Engineer Harry E. Bingaman, P. E.  
 Glace Assoc., Inc.  
 3705 Trindle Rd.  
 Camp Hill, PA 17011  
 Application Received: 1/3/2005  
 Description of Action Construction of a 1.267 million gallon storage tank and related appurtenances.

**Permit No. 0606507**, Public Water Supply.  
 Applicant **Shillington Municipal Authority**  
 Municipality Mohnton Borough  
 County **Berks**  
 Responsible Official Michael D. Mountz, Borough Manager  
 2 East Lancaster Avenue  
 P. O. Box 247  
 Shillington, PA 19607-0247  
 Type of Facility Public Water Supply  
 Consulting Engineer Darryl A. Jenkins, P. E.  
 Great Valley Consultants  
 75 Commerce Drive  
 Wyomissing, PA 19610  
 Application Received: 4/24/2006  
 Description of Action Installation of a booster pump station to allow system to fill an existing finished water storage tank to capacity.

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

**Permit No. 4906501**, Construction Public Water Supply.  
 Applicant **Sunbury Municipal Authority**  
 Township or Borough City of Sunbury  
 County **Northumberland**  
 Responsible Official Scott J. Debo, Manager  
 Sunbury Municipal Authority  
 462 South Fourth Street  
 Sunbury, PA 17801  
 Type of Facility Public Water Supply—Construction  
 Consulting Engineer Patrick J. Ward, P. E.  
 Uni-Tec Consulting Engineers, Inc.  
 2007 Cato Avenue  
 State College, PA 16801

Application Received Date May 24, 2006  
 Description of Action Reconstruction and rehabilitation of the Susquehanna River Raw Water Pump Station.

#### MINOR AMENDMENT

#### 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. 0906507, Minor Amendment.

Applicant **Hilltown Township Water and Sewer Authority**  
 Township Hilltown  
 Responsible Official James C. Groff  
 316 Highland Park Drive  
 Sellersville, PA 18960  
 Type of Facility PWS  
 Consulting Engineer Castle Valley Consultants, Inc.  
 10 Beulah Road  
 New Britain, PA 18901  
 Application Received Date May 18 2006  
 Description of Action Connection of approximately 2,914 L.F. to Hilltown's existing 12" watermain on Keystone Drive to serve the development.

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

#### Application Minor Amendment.

Applicant **Municipal Authority of the Borough of Minersville**  
 Cass Township  
**Schuylkill County**  
 Responsible Official James Cleary, Manager  
 Municipal Authority of the Borough of Minersville  
 2 East Sunbury Street  
 Minersville, PA 17954  
 (570) 544-2149  
 Type of Facility Community Water System  
 Consulting Engineer Michael J. Daschbach, P. E.  
 Entech Engineering, Inc.  
 P. O. Box 32  
 Reading, PA 19603  
 (610) 373-6667  
 Application Received Date May 8, 2006  
 Description of Action Application for installation of a sodium hydroxide chemical feed system for pH adjustment to replace the existing lime feed system at the Minersville WTP.

**Application No., Minor Amendment, Public Water Supply**

Applicant **Pocono Farms Community Assoc.**

	Coolbaugh Township <b>Monroe County</b>
Responsible Official	William Weimer, President Pocono Farms Community Association 7000 Lake Road Tobyhanna, PA 18466
Type of Facility	PWS
Consulting Engineer	William J. Malos, P. E. Pennsylvania American Water Co. 100 N. Pennsylvania Avenue Wilkes-Barre, PA 18701
Application Received Date	05/16/2006
Description of Action	The applicant proposes to replace 3 existing pumps at Well No. 7 with new pumps of the same capacity but with a higher head (30 psi greater than existing pumps) and interconnect to PAWC's Mount Pocono system.

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

**Application No. 0206503MA, Minor Amendment.**

Applicant	<b>Fox Chapel Authority</b> 255 Alpha Drive Pittsburgh, PA 15238
Township or Borough	Fox Chapel Borough
Responsible Official	Mark Nicely, Manager Fox Chapel Authority 255 Alpha Drive Pittsburgh, PA 15238
Type of Facility	Water storage tank
Consulting Engineer	Bankson Engineers, Inc. 267 Blue Run Road P. O. Box 200 Indianola, PA 15051
Application Received Date	May 9, 2006
Description of Action	South Tank replacement—replacement of the existing welded steel water storage tank with a bolted, glass-fuse-to-steel water storage tank.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environ-  
mental 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 Stan-  
dard, the Site-Specific Standard or who intend to remedi-  
ate 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 demon-  
strates 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 pub-  
lished 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 remedia-  
tion 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 alter-  
native form, contact the community relations coordinator  
at the appropriate regional office. TDD users may tele-  
phone the Department through the AT&T Relay Service  
at (800) 654-5984.

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

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

**2804 West Township Line Road**, Upper Darby Town-  
ship, **Delaware County**. Samuel Kucia Environmental  
Consulting, Inc., 500 East Washington St., Suite 375  
Norristown, PA 19401 on behalf of Bruce Greenfield,  
Agnew Associates, LLC c/o Dr. Bruce Greenfield, 2800  
Township Line Road, Havertown, PA 19083 has submitted  
a Notice of Intent to Remediate. Soil at the site has been  
impacted by release of unleaded gasoline. The intended  
future use of the subject property consists of proposed  
commercial redevelopment activities.

**Inglis Gardens Apt at Elmwood**, City of Philadel-  
phia, **Philadelphia County**. Scott Smith, Powell-  
Harpstead, Inc., 800 E. Washington St., West Chester, PA  
19380 on behalf of Arthurette Morris-Stone, Inglis Hous-

ing Corporation, 2600 Belmont Ave, Philadelphia, PA 19131 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of other organic. The intended future use of the site is residual use. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Weekly* on April 26, 2006.

**Wasserman Prop.**, City of Philadelphia, **Philadelphia County**. Kurt J. Spiess, EMG, P. O. Box 129, Edgemont, PA 19028 on behalf of T. Wasserman, 550 Pinetown Road Suite 440, Ft. Washington, PA 19034 has submitted a Notice of Intent to Remediate. Soil and groundwater has been impacted with Chlorinated Solvents. The intended future use of the site will be consistent with its current use as a commercial manufacturing/warehouse. A summary of the Notice of Intent to Remediate was reported to have been published in the *Northeast Times* on April 20, 2006.

**Royersford MGP Site**, Royersford Borough, **Montgomery County**. John Roberts, 450 South Gravers Road, Suite 105, Plymouth Meeting, PA 19462 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with PAH's. Crest Club of Royersford, LP intends to construct condominiums on the property.

**WAWA Food Market 134**, New Hanover Township, **Montgomery County**. Tiffani Doerr, GES, Inc. 4410 Eagleview Blvd. Suite 110, Exton, PA 191341 on behalf of Matthew Winters, WAWA, Inc. 260 W. Baltimore Pike, WaWa, PA 19063 has submitted a Notice of Intent to Remediate. Soil has been impacted with leaded gasoline and MTBE. The future use will remain as a WAWA retail gasoline and convenience store.

**145 N. Narberth Ave.**, Narberth Borough, **Montgomery County**. Samuel Kucia, Environmental Consulting, Inc. 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Brendan Johnson, 145 North Narberth Avenue, LLC, 7 Outlook Drive, Darien, CT 06820 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with no. 2 fuel oil and diesel fuel. The intended future use of the subject property will continue to be a professional office building. A summary of the Notice of Intent to Remediate was reported to have been published in the *Main Line Times* on May 4, 2006.

**Roeser Property**, Solebury Borough, **Bucks County**. Edward H. Prout, Jr., ARC, Inc., P. O. Box 579, Quakertown, PA 18951 on behalf of Allan Roeser, HGR Investors, LP, 140 East Butler Avenue, Chalfont, PA 18914 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with unleaded gasoline. A summary of the Notice of Intent to Remediate was reported to have been published in *The Intelligencer* on April 27, 2006.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Exxon Station No. 2-3706**, Borough of Birdsboro, **Berks County**. GES, Inc., 410 Eagleview Boulevard, Suite 110, Exton, 19341, on behalf of Frank and Linda Bentz, Bentz's Service Station, 235 North Furnace Street, Birdsboro, PA 19508, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with BTEX, MTBE and petroleum hydrocarbons. The site is commercial and will be used commercially in the future. The applicant seeks to remediate to the Statewide Health and Site Specific Standards.

**Bon Secours Holy Family Regional Health System**, Altoona City, **Blair County**. Mountain Research LLC, 825 25th Street, Altoona, 16601, on behalf of Bon Secours Holy Family Regional Health System, 2500 Seventh Avenue, Altoona, PA 16601, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with diesel fuel. The property is used as a hospital and will remain a hospital in the future. The applicant seeks to remediate to the Statewide Health Standard.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Applications Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**Permit Application No. 400459. Merck & Co Inc.**, P. O. Box 100, Whitehouse Station NJ 08889, Upper Gwynedd Township, **Montgomery County**. This waste permit modification application was received to increase nonlocal captive waste acceptance and to combine operations for Merck's Waste Heat Incinerator and Rotary Kiln Incinerator located at the West Point facility. The application was received by the Southeast Regional Office on May 17, 2006.

**Permit Application No. 301285. Schuylkill Yankee Realty**, 61st St. and West Passyunk Ave., Philadelphia, PA 19153, City of Philadelphia. This application was received for renewal of the facility's waste oil processing permit. The application was received by the Southeast Regional Office on May 19, 2006.

**Permit Application No. 301220. Clean Earth of Philadelphia, Inc.**, 3201 S. 61st Street, Philadelphia, PA 19153, City of Philadelphia. Application received to increase facility's maximum daily volume. The application was received by the Southeast Regional Office on May 16, 2006.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.



Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

#### PLAN APPROVALS

**Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**40-303-027: Pennsy Supply, Inc.** (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17105) for modification of a batch asphalt plant to utilize waste derived liquid fuel at the Slusser Brothers facility at 225 New Boston Road, Jenkins Township, **Luzerne County**.

**40-318-058: Silgan Closures, LLC** (350 Jaycee Drive, West Hazleton, PA 18202) for installation of an air cleaning device (replacement for three coating lines) in Hazle Township, **Luzerne County**.

**45-313-014: Bio-Spectra, Inc.** (R. R. 2, Box 2129G, Stroudsburg, PA 18360) for construction of three product dryers and associated air cleaning device in Stroud Township, **Monroe County**.

**40-317-029: AMD Cocoa** (1001 West Brush College Road, Decatur, IL 62521) for construction of a cocoa production process and associated air cleaning devices in Humboldt Industrial Park North, Hazle Township, **Luzerne County**.

**66-315-047: The Procter and Gamble Paper Products Co.** (P. O. Box 32, Route 87, Mehoopany, PA 18629) for installation of an air cleaning device to capture emissions from a paper machine room ventilation system in Washington Township, **Wyoming County**.

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

**06-05029C: Reading Truck Body, Inc.** (P. O. Box 650, Reading, PA 19607-0650) for modification of the Standard E-Coating Line and the facility emission caps at the Reading plant in City of Reading, **Berks County**. The facility is subject to Title V permitting.

**36-05082C: Clark Filter, Inc.** (3649 Hempland Road, Lancaster, PA 17601) for installation of a catalytic oxidizer for the facility's paper coating line in West Hempfield Township, **Lancaster County**. The operation of the paper coating line is subject to 40 CFR Part 63, Subpart JJJJ—National Emission Standards for Hazardous Air Pollutants for Paper and Web Coatings.

**36-05145A: Craig Manufacturing Corp.** (P. O. Box 901, Adamstown, PA 19501) for operation of the utility box manufacturing process at their facility in West Cocalico Township, **Lancaster County**.

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

**10-281I: II-VI, Inc.** (375 Saxonburg Boulevard, Saxonburg, PA 16056) for construction of a new hydrogen selenide/hydrogen sulfide emergency scrubber (potassium hydroxide scrubbing solution) in Saxonburg, **Butler County**. The scrubber will only be activated in the event of an accidental leak in either the delivery vault or the furnace flow panels. The purpose of the scrubber is to prevent the emission of any accidental leak of hydrogen selenide or hydrogen sulfide. This is a State-only V facility.

**25-069L: Engelhard Corp.** (1729 East Avenue, Erie PA 16503) for installation of a Nickel Plating process at the Erie facility in the City of Erie, **Erie County**.

**24-016D: Keystone Powdered Metal Co.** (251 State Street, Saint Marys, PA 15857) for modification of the solvent metal cleaning operation by changing from the use of Trichlorethylene to n-Propyl Bromide in the City of Saint Marys, **Elk 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, Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**15-0126: Brandenburg Industrial Services Co.** (1905 East Fourth Street, Bethlehem, PA 18015) for installation of a portable concrete crusher at the Wyeth Pharmaceuticals facility site, West Chester Township, **Chester County**. This installation of the crusher may result in the emissions of 0.132 ton per year of total PM, 0.032 ton per year of PM10 emissions, 0.236 ton per year of SOx emissions, 1.24 tons per year of NOx emissions, 0.076 ton per year of VOC emissions, and 0.148 ton per year of CO emissions. 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.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**40-305-027: Mountaintop Anthracite, Inc.** (1550 Crestwood Drive, Mountaintop, PA 18707) for installation and operation of an anthracite coal processing operations

in Wright Township, **Luzerne County**. Company will install an anthracite coal drying, screening and packaging facility. The coal at a rate of 10 tons/hr will process through dryer, and other equipment for packaging particulate emissions from the dryer and fugitive particulate emissions from the plant equipment will be controlled by baghouses. Expected particulate emission rate will be less than 0.02 grain/dscf from each baghouse. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system. 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.

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

**38-03019B: Allied Veterinary Cremation, Ltd.** (719 Lawn Road, Palmyra, PA 17078) for installation of a new animal crematory unit at their existing facility in South Londonderry Township, **Lebanon County**. This source will be controlled by the use of a secondary combustion chamber. With this additional source the total actual emissions will be approximately 3.5 tpy of PM, 2.6 tpy of CO, 1.6 tpy of NO<sub>x</sub> and 1 tpy or less of SO<sub>x</sub> and VOCs. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

**38-05020A: G & H Fortyniners, Inc.,** d/b/a Keystone Protein Co. (568 Chestnut Hill Road, P. O. Box 37, Fredericksburg, PA 17026) for installation of a continuous cooker system and a No. 4 oil fired boiler subject to NSPS Subpart Dc, in Bethel Township, **Lebanon County**. This application approval will result in the facility annual potential NO<sub>x</sub> emissions increase of approximately 20 tons. The Plan Approval will contain restrictions and work practice standards designed to keep the sources operating within all applicable air quality requirements.

**67-03103A: Gerhardt USA** (400 East Locust Street, Dallastown, PA 17313) for construction of a hard chrome plating line in Dallastown Borough, **York County**. The modification will increase the facility's potential-to-emit the HAP hexavalent chromium by about 25 pounds per year. The plan approval and operating permit will include emission restrictions, testing requirements, work practice standards, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. The chrome plating operations are subject to 40 CFR Part 63, Subpart N—National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

**67-05108: An-Cor Industrial Plastics, Inc.** (100 Melody Lane, North Tonawanda, NY 14120) for construction of a plastic chimney liner for the exhaust stacks at the Brunner Island Steam Electric Station in East Manchester Township, **York County**. The actual emission of the HAP styrene from the proposed operations is expected to be around 23.4 tons. The plan approval and operating permit will include emission restrictions, work practice standards, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. The stack liner manufacturing operations are subject to 40 CFR Part 63, Subpart WWWW—National Emission Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.*

**49-00033B: Watsontown Brick Co.** (P. O. Box 68, Route 405, Watsontown, PA 17777-0068) for construction and operation of a 400 ton per hour impact crusher, associated conveying and material handling equipment and a 440 horsepower diesel fired generator at their brick making facility in Delaware Township, **Northumberland County**. The respective facility is a major facility for which a Title V operating permit 49-00033 has been issued.

The Department of Environmental Protection's (Department) review of the information submitted by Watsontown Brick Company indicates that the crusher, associated conveying and material handling equipment, and 440 horsepower diesel fired generator will meet all applicable air quality regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the Best Available Technology (BAT) requirements of 25 Pa. Code §§ 127.1 and 127.12. In addition, the impact crusher will meet the requirements of Subpart OOO of the New Source Performance Standards, 40 CFR 60.670—60.676. Based on these findings, the Department intends to approve the application and issue plan approval for the construction of the crusher, associated conveying and material handling equipment, and 440 horsepower diesel fired generator. 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 49-00033 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. Source ID P110A consists of a 400 ton per hour Universal Engineering Corporation model 130/150 RCPR Unicrawl Impact Crusher, a 44" by 14' vibrating grizzly feeder, a 42" by 31' discharge conveyor rated at 400 tons per hour and a 440 horsepower Caterpillar model C13 ATAAC diesel fired engine equipped with a DCL Manufacturing model DC-16-DQ oxidation catalyst (ID C110B).

2. Under the BAT of 25 Pa. Code §§ 127.1 and 127.12, source ID P110A shall not be operated in excess of 1,850 hours in any 12-consecutive month period.

3. Under the BAT of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not process more than 150,000 tons of shale or brick batts combined through Source ID P110A in any 12-consecutive month period.

4. Under the BAT of 25 Pa. Code §§ 127.1 and 127.12, the Caterpillar model C13 ATAAC engine of Source ID P110A shall only be fired on diesel fuel and the sulfur content of the fuel shall not exceed 0.3% by weight.

5. Under the BAT of 25 Pa. Code §§ 127.1 and 127.12, the DCL model DC-16-DQ oxidation catalyst associated with the diesel engine of Source ID P110A shall have a minimum control efficiency of 90% for CO.

6. Under the BAT of 25 Pa. Code §§ 127.1 and 127.12, the air contaminant emissions from the Caterpillar model C13 ATAAC engine of Source ID P110A shall not exceed the following levels:

- a. The PM emissions shall not exceed 0.15 grams/horsepower-hr and 0.13 tons in any 12-consecutive month period.

b. The NO<sub>x</sub> emissions shall not exceed 3.52 grams/horsepower-hr and 3.15 tons in any 12-consecutive month period.

c. The CO emissions shall not exceed 2.0 grams/horsepower-hr and 1.79 tons in any 12-consecutive month period.

d. The VOC emissions shall not exceed 0.10 grams/horsepower-hr and 0.09 tons in any 12-consecutive month period.

e. The SO<sub>x</sub> emissions from the diesel engine of Source ID P110A shall not exceed 0.90 pounds per hour and 0.83 tons in any 12-consecutive month period.

7. Under the BAT of 25 Pa. Code §§ 127.1 and 127.12, the diesel engine of Source ID P110A shall not have visible emissions greater than 10% at any time.

8. The Department reserves the right to require stack tests in accordance with EPA reference methods if the Department feels testing is necessary to demonstrate compliance with the emissions limitations for the diesel engine of Source ID P110A.

9. The permittee shall keep records of the following information for Source ID P110A:

a. The total hours Source ID P110A is operated each month and the supporting calculations to verify compliance with the operating hours limitation for Source ID P110A in any 12-consecutive month period.

b. Supporting calculations to verify compliance with the NO<sub>x</sub>, COs, VOCs, SO<sub>x</sub> and PM emission limitations in any 12 consecutive month period.

c. Fuel certification reports obtained yearly from the fuel oil supplier stating that the sulfur percentage for each shipment of fuel delivered to the facility during the year shall not exceed 0.3% sulfur by weight.

d. The total amount of shale and brick batts processed through Source ID P110A each month and the supporting calculations to verify compliance with the 12-consecutive month limitation.

These records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

10. Under the BAT of 25 Pa. Code §§ 127.1 and 127.12, The Universal Engineering Corporation model 130/150 RCPR Unicrawl Impact Crusher and associated discharge conveyor of Source ID P110A shall be equipped with a wet spray dust suppression system (ID C110A) and the dust suppression system shall be operated on any and all occasions that Source ID P110A is operated. Operation without simultaneous operation of the water spray dust suppression system can take place only in those unusual instances where processed materials contain sufficient moisture so as not to create air contaminant emissions in excess of the limitations specified in 25 Pa. Code § 123.1. If, however, the water spray dust suppression system is incapable of operation due to weather conditions or any other reason, the permittee may not operate Source ID P110A.

11. Under the BAT of 25 Pa. Code §§ 127.1 and 127.12, the discharge conveyor of Source ID P110A shall be completely covered to its discharge point.

12. Source ID P110A is subject to 40 CFR Part 60 Subpart OOO Sections 60.670—60.676. The permittee shall comply with all applicable requirements of that subpart.

13. The permittee shall comply with all recordkeeping and reporting requirements specified in 40 CFR 60.676.

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, Chief, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

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

**10-350A: iDL Merchandising—Cloverleaf Group Inc.** (500 Grant Avenue, East Butler, PA 16029) for construction of the various presses needed for the point of purchase display manufacturing operation (NAICS 323100) in East Butler Borough, **Butler County**. This is a State-only facility. The public notice is required for sources required to obtain a Plan Approval in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the State-only operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- The permittee shall limit facility VOC emissions to less than 49.5 tpy based on a consecutive 12-month period.
- The permittee shall limit facility HAP emissions to less than 24.8 tpy for total HAPs and less than 9.8 tpy for any single HAP. The tpy limits are based on a consecutive 12-month period.
- The permittee shall collect and record the following information. The information shall be maintained at the facility for a minimum of 5 years and shall be made available to an authorized Department of Environmental Protection's (Department) representative at any time during normal working hours. The information required is:
  - The 30-day rolling total and the 12-month rolling total of VOC emissions for the facility.
  - The 30-day rolling total and the 12-month rolling total of both the total HAP emissions for the facility and individual HAP emissions for the facility.
- The permittee shall collect and record the following information. The information shall be maintained at the facility for a minimum of 5 years and shall be made available to an authorized Department representative at any time during normal working hours. The information required is with regards to solvent usage:
  - The daily consumption of each solvent used (gallons/day or #/day)
  - The density of each solvent as supplied used (#/gallon of solvent) or specific gravity
  - The VOC and HAP content of each solvent as supplied used (# VOC/gallon of ink or # HAP/gallon of ink)

- All sources shall comply with the following:
    - Subject to 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive matter, odor and visible emissions.
    - The permittee shall perform a weekly operational inspection of the source.
    - The permittee shall maintain and operate the source in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.
    - The permittee shall maintain a record of the preventative maintenance inspections of the control device. These records shall, at a minimum, contain the date of the inspections, any problems or defects, the actions taken to correct the problems or defects and any routine maintenance performed.
  - The following conditions are for the presses:
    - Subject to 25 Pa. Code § 123.13.
    - The permittee shall collect and record the following information for each press. The information shall be maintained at the facility for a minimum of 5 years and shall be made available to an authorized Department representative at any time during normal working hours. The information required is:
      - The daily consumption of each ink used (gallons/day or #/day)
      - The density of each ink as supplied used (#/gallon of ink) or specific gravity
      - The VOC and HAP content of each ink as supplied used (# VOC/gallon of ink or # HAP/gallon of ink)
      - The VOC and HAP content of each ink as applied (# VOC/gallon of ink applied or # HAP/gallon of ink applied)
      - For ink series, the ink with the highest VOC and HAP content may be used to represent all inks of that series.
    - The permittee shall keep all solvent containers closed at all times unless filling, draining or performing cleanup operations.
    - The permittee shall keep all solvent laden shop towels in a closed container when not being used.
  - The following conditions are for the spray booths:
    - Subject to 25 Pa. Code § 123.13.
    - Subject to 25 Pa. Code § 129.52.
    - The permittee shall install a magnehelic gauge or equivalent to measure pressure drop across the control device. The gauge shall be maintained in good working order at all times. The permittee shall develop the normal operating range for the control device and shall submit the normal operating range to the Department for approval prior to applying for an operating permit.
    - The permittee shall maintain a record of the following during the operational inspections:
      - Pressure drop across the control device.
  - The following conditions are the cutting, grinding, sawing and sanding particulate source:
    - No person may permit the emission into the outdoor atmosphere of PM in a manner that the concentration of PM in the effluent gas exceeds 0.02 grains per dry standard cubic foot (gr/dscf).
  - The permittee shall maintain a record of the following during the operational inspections:
    - Pressure drop across the control device.
  - The permittee shall install a magnehelic gauge or equivalent to measure pressure drop across the control device. The gauge shall be maintained in good working order at all times. The permittee shall develop the normal operating range for the control device and shall submit the normal operating range to the Department for approval prior to applying for an operating permit.
- 37-012A: Dunbar Asphalt Products, Inc.** (Route 224, Hillsville, PA 16132) for modification of a plan approval to burn Recycled/Reprocessed fuel oil at their Hillsville Hot Mix Batch Asphalt Plant in Mahoning Township, **Lawrence County**.
- In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection intends to issue a plan approval for modification of a plan approval to burn Recycled/Reprocessed fuel oil at the Hillsville Hot Mix Batch Asphalt Plant in Mahoning Township, Lawrence County. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the State-only operating permit through an administrative amendment at a later date.
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- Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**
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- Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.*
- 40-00070: Berwick Offray LLC** (Bomboy Lane and 9th Streets, Berwick, PA 18603) for a State-only (Synthetic Minor) Operating Permit for a ribbon and bow manufacturing facility in Salem Township, **Luzerne County**. The sources at the facility include 28 space heaters, 7 extruders, 9 parts washers, 3 wash stations, 3 pellet storage silos, 1 plastic pellet mix tank, 2 rotopress printing presses, 1 flexographic printing press 1 reclaim system, 2 gas fired boilers and 2 laminating machines. The sources have the potential to emit Volatile Organic Compounds above Title V thresholds. The permittee is taking an elective restriction to limit VOCs below the 50 ton Title V emission threshold. The permittee shall verify compliance through recordkeeping and reporting. The proposed State-only (Synthetic Minor) Operating Permit contains applicable requirements for emissions limitations, monitoring, recordkeeping, reporting and work practice standards used to maintain facility compliance with Federal and State air pollution regulations.
- Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*
- 06-03062: Theodore C. Auman, Inc.** (247 Penn Street, Reading, PA 19601) for operation of a human crematory at their funeral home in the City of Reading, **Berks County**. This action is a renewal of the State-only Operating Permit issued in 2001.
- 38-05027: Reading Materials Inc.—Lebanon Materials Division Asphalt Plant** (P. O. Box 1467, Skippack, PA 19474-1467) for renewal of their State-only Operating Permit for operation of their Asphalt Plant in North Annville Township, **Lebanon County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Eric Gustafson Facilities Permitting Chief, (814) 332-6940*

**42-00133: Kane Hardwood—Collins Company—Kane City** (95 Hardwood Drive, Kane, PA 16735) for operation of the Sawmills and Planning Mills Facility in Kane Borough, **McKean County**.

**42-00195: Ram Forest Products, Inc.** (Route 44, Ceres Road, Shinglehouse, PA 16748) for processing of timber resources into rough-cut and kiln dried lumber products. This facility is located in Ceres Township, **McKean County**.

**COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal 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). Mining activity permits issued in response to 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 an application is available for inspection at the district mining office indicated before an 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 certification.

Written comments, objections or requests for informal conferences on applications 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 district mining office indicated before an 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.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the 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 must contain the name, address and telephone number of 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 wishes to have the conference conducted in the locality of the proposed mining activities.

*Coal Applications Received*

*Effluent Limits*—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) 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 (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

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

**11960107 and NPDES No. PA0234184. T. J. Mining, Inc.**, P. O. Box 370, Carrolltown, PA 15722, permit renewal for the continued operation and restoration of a

bituminous surface and auger mine in Cresson Township, **Cambria County**, affecting 62.0 acres. Receiving streams: UNT to Burgoon Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 25, 2006.

**Permit No. 56930106 and NPDES No. PA 0212458. Future Industries, Inc.**, P. O. Box 157, Meyersdale, PA 15552-0157, revision of an existing bituminous surface mine to change the land use from forestland to wildlife habitat or unmanaged natural habitat in Black Township, **Somerset County**, affecting 192.2 acres. Receiving streams: UNTs to/and Casselman River classified for the

following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received May 18, 2006.

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

**63000101 and NPDES Permit No. PA0202819. Muligan Mining, Inc.** (5945 Puddingstone Lane, Bethel Park, PA 15102). Application received for permit renewal for continued reclamation only of a bituminous surface mining site located in Smith Township, **Washington County**, affecting 178.3 acres. Receiving streams: UNTs to Raccoon Creek, and UNTs to Burgetts Fork, classified for the following use: WWF. There are no downstream potable water supply intakes within ten miles from the point of discharge. Application received: May 22, 2006.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**49871601R3. Lenig & Kosmer Coal Washery** (R. D. 1 Box 250A, Shamokin, PA 17872), renewal of an existing anthracite coal preparation plant operation in West Cameron Township, **Northumberland County** affecting 3.6 acres. Receiving stream: none. Application received May 25, 2006.

*Noncoal Applications Received*

*Effluent Limits*

The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity <sup>1</sup>		greater than 6.0; less than 9.0	
pH <sup>1</sup>			

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

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. 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.

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

**03910401 and NPDES Permit No. PA0592412. M & M Lime Co., Inc.** (215 Nichola Road, Worthington, PA 16262-9753). NPDES Renewal application received for continued operation and reclamation of a noncoal surface mining site located in West Franklin and Clearfield Townships, **Armstrong and Butler Counties**, affecting 85.7 acres. Receiving stream: Buffalo Creek, classified for the following uses: HQ-TSF and Allegheny River, classified for the following use: WWF. There is no potable water supply within ten miles downstream from the point of discharge. Application received: May 24, 2006.

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

**37960301. ESSROC Cement Corp.** (P. O. Box 779, Bessemer, PA 16112-8928. Renewal of NPDES Permit No. PA0227188, North Beaver Township, **Lawrence County**. Receiving streams: UNT to the Mahoning River, classified for the following use: WWF and UNT to Hickory Run, unclassified. There are no potable surface water supply intakes within 10 miles downstream. NPDES Renewal application received: May 23, 2006.

**37910303. ESSROC Cement Corp.** (P. O. Box 779, Bessemer, PA 16112-8928. Renewal of NPDES Permit No. PA0208442, North Beaver Township, **Lawrence County**. Receiving streams: UNT to the Mahoning River, classified for the following uses: WWF; UNT to Hickory Run, unclassified; and Hickory Run, classified for the following uses: TSF. The first downstream potable water supply intake from the point of discharge is West Pittsburg Water Co. NPDES Renewal application received: May 23, 2006.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**58020807. John D. Lepre** (R. R. 1 Box 310, Kingsley, PA 18826), Stages I and II bond release for a quarry operation in New Milford Township, **Susquehanna County** affecting 1.0 acre on property owned by Jim Malkemes and Ed Nolan. Application received May 22, 2006.

**58000822. Kenneth W. Ives** (R. R. 1 Box 1297, Little Meadows, PA 18830), Stages I and II bond release for a quarry operation in Apolaccon Township, **Susquehanna County** affecting 3.0 acres on property owned by Jeffery Kropiewnicki. Application received May 23, 2006.

**5476SM4A1C3 and NPDES Permit No. PA0612049. Glasgow, Inc.** (P. O. Box 1089, Glenside, PA 19038), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Montgomery Township, **Montgomery County**. Receiving stream: UNT to Little Neshaminy Creek, classified for the following use: WWF and MF. Application received May 25, 2006.

**FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401**

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person

commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).**

#### WATER OBSTRUCTIONS AND ENCROACHMENTS

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E18-408. Department of Conservation and Natural Resources**, 15187 Renovo Road, Renovo, PA 17764. Middle Branch 2—Chuck Keiper Trail Bridge, in Beech Creek Township, **Clinton County**, ACOE Baltimore District (Renovo NE, PA Quadrangle N: 16.53 inches; W: 0.53 inch).

To construct, operate and maintain an aluminum I-beam wood deck pedestrian bank-to-bank bridge with an 18-foot clear span, wooden abutments and a 3-foot underclearance to carry the Chuck Keiper Hiking Trail over East Branch Big Run located 1.1 miles downstream of the run's crossing of Coon Run Road. This project proposes to indirectly impact 3 linear feet of East Branch Big Run, which is classified as an Exceptional Value stream.

**E41-562. Justin Bieber**, 690 P. Houseknecht Road, Muncy, PA 17756. Water Obstruction and Encroachment Joint Permit Application, in Moreland Township, **Lycoming County**, ACOE Susquehanna River Basin District (Hughesville, PA Quadrangle N: 9.75 inches; W: 0.61 inch).

To construct and maintain a 56-foot by 12-foot steel I-beam bridge on a skew of 90° in Laurel Run, 0.5 mile southeast of the intersection of SR 0442 and P. Houseknecht Road along (T-662) Houseknecht Road Road. This project proposes to permanently impact 56 linear feet of Laurel Run, which is, designated a HQ-CWF stream and does not propose to impact any jurisdictional wetlands. 1

## ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457,

(717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0060089 (Sewage)	Middle Smithfield Township Municipal Authority 25 Municipal Drive East Stroudsburg, PA 18301-9710	Monroe County Middle Smithfield Township	Bushkill Creek (1D)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0088226 (Sewage)	South Woodbury Township 125 North Road New Enterprise, PA 16664	Bedford County South Woodbury Township	Yellow Creek 11-A	Y
PA0033065 (Sewage)	Palm City Park 2379 Brandt Road Annville, PA 17003	Lebanon County South Annville Township	Killinger Creek 7-D	Y
PA0085073 (Sewage)	Wood-Broad Top-Wells Joint Municipal Authority P. O. Box 7 Wood, PA 16694	Huntingdon County Wood Township	UNT Great Trough Creek 11-D	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0000493 Industrial Waste	Pittsburgh Allegheny County Thermal, Ltd. Law and Finance Building 429 Fourth Avenue Suite 806 Pittsburgh, PA 15219	Allegheny County City of Pittsburgh	Allegheny River	Y
PA0096725 Sewage	Belle Vernon Area School District 270 Crest Avenue Belle Vernon, PA 15012	Fayette County Washington Township	Downers Run	Y
PA0218375 Sewage	Joseph Perri Arensberg Estates P. O. Box 297 Cecil, PA 15321	Washington County Cecil Township	UNT of Millers Run	Y
PA0218707 Sewage	Kathryn A. Neumont 3882 Anderson Road Gibsonia, PA 15044	Allegheny County Richland Township	UNT to Willow Run	Y
PA0218740 Sewage	Mount Pleasant Township Supervisors Box 158 Mammoth, PA 15664	Westmoreland County Mount Pleasant Township	Drainage Swale to Boyer Run	Y



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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0209902	Ina B. and Michael J. Mailliard 694 Sunol Road Cochranton, PA 16314	Greenwood Township Crawford County	UNT to Sandy Creek 16-G	Y
PA0005762	Electralloy 175 Main Street Oil City, PA 16301	City of Oil City Venango County	Allegheny River 16-E	Y
PA0104469	Kasgro Rail Corporation 121 Rundle road New Castle, PA 16102	Taylor Township Lawrence County	Shenango River 20-A	Y
PA0104426	Corner Water Supply & Service Corporation 113 Oakwood Lane Shippenville, PA 16254-0040	Elk Township Clarion County	Paint Creek 17-B	Y
PA0102580	Baxter Mobile Home Park 457 Jamisonville Road Butler, PA 16001	Center Township Butler County	UNT to Stony Run 20-C	Y
PA0031305	The Summit School, Inc. The Summit Academy 839 Herman Road P. O. Box 13 Butler, PA 16039	Summit Township Butler County	UNT to Bonnie Brook 20-C	Y

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

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

**NPDES Permit No. PA0246956**, Sewage, **Alsace Township**, 65 Woodside Avenue, Temple, PA 19560-9530. This proposed facility is located in Alsace Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Little Manatawny Creek in Watershed 3-D.

**NPDES Permit No. PA0247995**, Sewage, **Motel 22 d/b/a All Seasons Inn**, R. R. 1, Box 1900, Mapleton Depot, PA 17052. This proposed facility is located in Brady Township, **Huntingdon County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT Juniata River in Watershed 12-C.

**NPDES Permit No. PA0246999**, Sewerage, **Dr. and Mrs. Gregg Brady**, 7886 Lincoln Way West, Saint Thomas, PA 17252. This proposed facility is located in Saint Thomas Township, **Franklin County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to discharge to UNT Campbell Run in Watershed 13-C.

**NPDES Permit No. PA0084131**, Sewerage, **Gettysburg Area School District**, Franklin Township Elementary School, 900 Biglerville Road, Gettysburg, PA 17325-8007. This proposed facility is located in Franklin Township, **Adams County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to discharge to an UNT of Marsh Creek in Watershed 13-D.

**NPDES Permit No. PA0111601**, Sewerage, **Christian Retreat Center**, R. R. 1, Box 13A, East Waterford, PA 17021-0097. This proposed facility is located in Lack Township, **Juniata County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to discharge to the Tuscarora Creek in Watershed 12-B.

**NPDES Permit No. PA0084603**, Sewerage, **Fairmont Homes**, 333 Wheat Ridge Drive, Ephrata, PA 17522. This proposed facility is located in West Earl Township, **Lancaster County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to discharge to the Conestoga River in Watershed 7-J.

**NPDES Permit No. PA0247944**, Sewerage, **Spring Grove Area School District, Paradise Elementary School**, 100 East College Avenue, Spring Grove, PA 17362. This proposed facility is located in Paradise Township, **York County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to discharge to an UNT of Beaver Creek in Watershed 7-F.

**NPDES Permit No. PA0086487**, Industrial Waste, **PPG Industries, Inc.**, Carlisle Plant Works No. 6, 400 Park Drive, Carlisle, PA 17013-9271. This proposed facility is located in South Middleton Township, **Cumberland County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to discharge to a drainage channel to Yellow Breeches Creek in Watershed 7-E.

**NPDES Permit No. PA0088056**, Industrial Waste, **Gettysburg Municipal Authority**, Stream Well No. 2, 601 East Middle Street, P. O. Box 3307, Gettysburg, PA 17325. This proposed facility is located in Cumberland Township, **Adams County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to discharge to an UNT of Marsh Creek in Watershed 13-D.

**NPDES Permit No. PA0246581**, Industrial Waste, **Mercer Vu Farms, Inc.**, 12275 Mt. Pleasant Road, Mercersburg, PA 17236. This proposed facility is located in Montgomery Township, **Franklin County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a 2,110-AEU dairy operation in Watershed 13-C.

**NPDES Permit No. PA008010, Amendment No. 1**, Industrial Waste, **David Moyer**, Hain Pure Protein Corporation, P. O. Box 10, Fredericksburg, PA 17026. This proposed facility is located in Bethel Township, **Lebanon County**.

Description of Size and Scope of Proposed Operation/Activity: Transfer of Permit.

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

**PA0253006**, Industrial Waste, **Cook Vascular, Inc.**, 1186 Montgomery Lane, Vandergrift, PA 15690. This proposed facility is located in Parks Township, **Armstrong County**.

Description of Proposed Action/Activity: Permit issuance for groundwater remediation project.

**PA0253260**, Sewage, **Henry Berdine**, 559 Zediker Station Road, Washington, PA 15301. This proposed facility is located in South Strabane Township, **Washington County**.

Description of Proposed Action/Activity: Permit issuance to discharge treated sewage.

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

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

**WQM Permit No. 4806402**, Sewerage, **Tatamy Borough Sewer Authority**, P. O. Box 218, Tatamy, PA 18085. This proposed facility is located in Tatamy Borough, **Northampton County**.

Description of Proposed Action: Issuance of Water Quality Management Permit for construction and operation of sewer extension for Phase I of the Chrin Commerce Center 11 lot light industrial/commerce park. The Phase I flow is 0.058473 mgd.

**WQM Permit No. 4506405**, Sewerage, **Smithfield Sewer Authority**, R. D. 5, Box 5229, East Stroudsburg, PA 18301. This proposed facility is located in Smithfield Township, **Monroe County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit.

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

**WQM Permit No. WQG01280601**, Sewerage, **Richard and Linda Runyon**, 6625 McClaysville Road, Newburg, PA 17240. This proposed facility is located in Lurgan Township, **Franklin County**.

Description of Proposed Action/Activity: Approval for a single family residence small flow treatment facility.-

**WQM Permit No. WQG01380601**, Sewerage, **Laborers District Council of Eastern Pennsylvania**, 6740 Allentown Blvd., Harrisburg, PA 17112. This proposed facility is located in East Hanover Township, **Lebanon County**.

Description of Proposed Action/Activity: Approval for the operation of a small flow treatment facility.

**WQM Permit No. WQG01670602**, Sewerage, **Rodger C. Petrone**, 4076 Market Street, Camp Hill, PA 17011. This proposed facility is located in Carroll Township, **York County**.

Description of Proposed Action/Activity: Approval for a single family residence small flow treatment facility.

**WQM Permit No. WQG01670603**, Sewerage, **Rodger C. Petrone**, 4076 Market Street, Camp Hill, PA 17011. This proposed facility is located in Carroll Township, **York County**.

Description of Proposed Action/Activity: Approval for a single family residence small flow treatment facility.

**WQM Permit No. WQG01670604**, Sewerage, **Rodger C. Petrone**, 4076 Market Street, Camp Hill, PA 17011. This proposed facility is located in Carroll Township, **York County**.

Description of Proposed Action/Activity: Approval for a single family residence small flow treatment facility.

**WQM Permit No. 2802402, Amendment 06-1**, Sewerage, **Dr. and Mrs. Gregg Brady**, 7886 Lincoln Way West, Saint Thomas, PA 17252. This proposed facility is located in Saint Thomas Township, **Franklin County**.

Description of Proposed Action/Activity: Approval for the installation/operation of a 40 ft<sup>2</sup> pressure dosed sand filter to the existing Aerobic Treatment System.

**WQM Permit No. 3105403**, Sewerage, **Motel 22 d/b/a All Seasons Inn**, R. R. 1, Box 1900, Mapleton Depot, PA 17052. This proposed facility is located in Brady Township, **Huntingdon County**.

Description of Proposed Action/Activity: Approval for the upgrade and refurbishment of the sewage treatment plant that serves Motel 22.

**WQM Permit No. 3806401**, Sewerage, **Twin Grove Park Campground**, 1445 Suedburg Road, Pine Grove, PA 17963. This proposed facility is located in Union Township, **Lebanon County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities to serve the Twin Grove Park Campground.

**WQM Permit No. 6705409**, Sewerage, **Spring Grove Area School District**, 100 East College Avenue, Spring Grove, PA 17362. This proposed facility is located in Paradise Township, **York County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of an extended aeration, precast concrete sewage treatment plant to serve the Paradise Elementary School.

**WQM Permit No. 3690413 Amendment 06-1**, Sewerage, **Manheim Borough Authority**, 15 East High Street, Manheim, PA 17545. This proposed facility is located in Penn Township, **Lancaster County**.

Description of Proposed Action/Activity: Amendment approves the modification/operation of sewerage facilities consisting of the use of bioaugmentation to convert aerobic digestion of biosolids to facultative digestion.

**WQM Permit No. 0706401**, Sewerage, **Freedom Township Sewer and Water Authority**, P. O. Box 156, East Freedom, PA 16637. This proposed facility is located in Blair Township, **Blair County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of replacing 2.030 linear feet of 6-inch force main with 10-inch force main to the existing Newry Pump Station to increase the capacity to 500 gallons per minute.

**WQM Permit No. 3806403**, Sewerage, **South Londonderry Township Municipal Authority**, P. O. Box 3, Campbelltown, PA 17010-0003. This proposed facility is located in South Londonderry Township, **Lebanon County**.

Description of Proposed Action/Activity: Approval for the construction of sewerage facilities consisting of a duplex wet well pump station with approximately 3,000 linear feet of 8-inch and 2,135 linear feet of 6-inch force main with a capacity of 446 gallons per minute. When additional capacity is required, the 6-inch section of the force main will be replaced with 8-inch pipe and the system will have a capacity of 640 gallons per minute.

**WQM Permit No. WQG02010601**, Sewerage, **Berwick Township**, 85 Municipal Road, Hanover, PA 17331. This proposed facility is located in Berwick Township, **Adams County**.

Description of Proposed Action/Activity: Approval for the construction/operation of a pump station.

**WQM Permit No. WQG02060601**, Sewerage, **Municipal Authority of the Borough of Sinking Spring**, 3940 Penn Avenue, Sinking Spring, PA 19608. This proposed facility is located in Sinking Spring Borough, **Berks County**.

Description of Proposed Action/Activity: Approval for the construction/operation of a sewer extension and pump station.

**WQM Permit No. WQG02360603**, Sewerage, **Paradise Township Sewer Authority**, Two Township Drive, Paradise, PA 17562. This proposed facility is located in Paradise Township, **Lancaster County**.

Description of Proposed Action/Activity: Approval for the construction/operation of a pump station.

**WQM Permit No. 3804201, Amendment 06-1 and 3887201; Amendment 06-1; and 3878201, Amendment 06-1**, Sewerage, **David Moyer**, Hain Pure Protein Corporation, P. O. Box 10, Fredericksburg, PA 17026. This proposed facility is located in Bethel Township, **Lebanon County**.

Description of Proposed Action/Activity: Permit Transfer.

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

**WQM Permit No. 0306201**, Industrial Waste, **Cook Vascular, Inc.**, 1186 Montgomery Lane, Vandergrift, PA 15690. This proposed facility is located in Parks Township, **Armstrong County**.

Description of Proposed Action/Activity: Permit issuance to a groundwater treatment system. Contaminated groundwater at the Cook Vascular, Inc. site.

**WQM Permit No. WQG016124**, Sewerage, **Dean Wright**, 125 Old Little Creek Road, Harmony, PA 16037. This proposed facility is located in Franklin Township, **Beaver County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a single residence sewage treatment plant.

**WQM Permit No. WQG016124**, Sewerage, **Dennis Handley**, 683 Simpson Howell Road, Elizabeth, PA 15037. This proposed facility is located in Elizabeth Township, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a single residence sewage treatment plant.

**WQM Permit No. 6304406**, **Center-West Joint Sewer Authority**, P. O. Box 542, Brownsville, PA 15417. This proposed facility is located in Centerville Borough and West Brownsville Borough, **Washington County**.

Description of Proposed Action/Activity: Permit issuance for the installation of a sewage collection, conveyance and treatment system to serve a portion of Centerville and West Brownsville Boroughs.

**WQM Permit No. 6505409**, Sewerage, **North Huntingdon Township Municipal Authority**, 11265 Center Highway, North Huntingdon, PA 15642. This proposed facility is located in North Huntingdon Township, **Westmoreland County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a sanitary pump station.

**WQM Permit No. 6505411**, Sewerage, **Greater Greensburg Sewage Authority**. This proposed facility is located in the City of Greensburg, **Westmoreland County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of an equalization basin.

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

**WQM Permit No. WQG018454**, Sewerage, **Robert Barko**, 10459 Old Route 99, McKean, PA 16426. This proposed facility is located in McKean Township, **Erie County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

**WQM Permit No. 6286201**, Industrial Waste, **Amendment No. 3, Waste Treatment Corporation**, 1 Harmer Street, Warren, PA 16365. This proposed facility is located in City of Warren, **Warren County**.

Description of Proposed Action/Activity: This project is for the replacement of the existing extended aeration unit to enhance treatment efficiency.

**WQM Permit No. WQG018466**, Sewerage, **Deanna Buttray**, 10473 Kennedy Hill Road, Meadville, PA 16335. This proposed facility is located in Vernon Township, **Crawford County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

**WQM Permit No. 1606401**, Sewerage, **James Kapp, Rocky River Development**, 8100 Ohio River Boulevard, Pittsburgh, PA 15202. This proposed facility is located in Perry Township, **Clarion County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage treatment facility to serve the Rocky River Development.

#### **IV. NPDES Stormwater Discharges from MS4 Permit Actions**

#### **V. NPDES Waiver Stormwater Discharges from MS4 Actions**

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10G259R	Tattersall Development Group Tattersall Golf Community Phase III 1522 Tattersall Way West Chester, PA 19380	Chester	West Bradford Township	Broad Run (EV)
PAI011505033	Owen J. Roberts School District Owen J. Roberts Elementary School Campus 901 Ridge Road Pottstown, PA 19465-8402	Chester	West Vincent Township	Birch Run (EV)

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023905035	Summit Realty Advisors, LLC 621 Delaware St. New Castle, DE 19720	Lehigh	Upper Macungie Township	Cedar Creek HQ-CWF

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

*Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10F1061	Penn State East Campus Larry Bair Office of Physical Plant 101P Physical Plant Bldg. State College, PA 16802	Centre County	State College Borough	Thompson Run HQ-CWF

Clearfield Conservation District: 650 Leonard Street, Clearfield, PA 16830, (814) 765-8130.

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041705003	(ORD Sewer Authority) Osceola Mills, Rush and Decatur Sewer Authority	Clearfield	Osceola Mills Borough Decatur Township Clearfield County  Rush Township Centre County	Moshannon Creek Main Stem Roup Run to Mouth TSF  UNT of Moshannon Creek CWF  Trout Run, Basin Montola Dam to Mouth (Fish and Boat Commission designates Trout Run as wild stream from headwaters to 2.96 km upstream of mouth) HQ-CWF  Big Run, Basin CWF  Name of Municipal Storm Sewer Operator: Osceola Mills Borough, Clearfield County Receiving Waters: Moshannon Creek TSF

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## VII. Approvals to Use NPDES and/or Other General Permits

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The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

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### List of NPDES and/or Other General Permit Types

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PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
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
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	CAFOs
PAG-13	Stormwater Discharges from MS4

*General Permit Type—PAG-2*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Doylestown Borough Bucks County	PAG2000906034	Wesley Enhanced Living at Heritage Towers 200 Veterans Lane Doylestown, PA 18901	Cooks Run (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Wrightstown Township Bucks County	PAG2000906019	Maria Mendonca-Colitto 941 Park Avenue Wrightstown, PA 18940	Mill Creek Neshaminy Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Doylestown Township Bucks County	PAG2000905043	Toll Brothers, Inc. 250 Gibraltar Road Horsham, PA 19044	North Branch Neshaminy Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Falls Township Bucks County	PAG2000905055	Atlantic Precast Industries P. O. Box 129, 8900 Old Rout 13 Tullytown, PA 19007	Martins Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Northampton Township Bucks County	PAG2000905085	880 North, LLC P. O. Box 5 Second St. Pike, NW Richboro, PA 18954	Ironworks Mill Creek South Neshaminy Creeks (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Makefield Township Bucks County	PAG2000905105	Wilco Properties, LLC 1005 Floral Vale Boulevard Yardley, PA 19067	Houghs Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Makefield Township Bucks County	PAG2000905087	Orleans Builders 333 Street Road Bensalem, PA 19020	Rock Run (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Northampton Township Bucks County	PAG2000905113	Barley Homes 46 Barley Drive Ivyland, PA 18974-1309	Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bristol Borough Bucks County	PAG2000905122	Lumbermen Associates, Inc. 2101 Hunter Road Bristol, PA 19007	Delaware River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Wrightstown Township Bucks County	PAG2000905111	Szarko Builders 35 Colonial Drive Newtown, PA 18940	Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Makefield Township Bucks County	PAG2000905148	Carl E. Slack, Sr. 1121 Slack Road Newtown, PA 18940	Jericho Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Middletown Township Bucks County	PAG2000906009	Neshaminy School District 2001 Old Lincoln Highway Langhorne, PA 19047	Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Makefield and Richland Townships Bucks County	PAG2000906015	Stevenson Construction P. O. Box 336 Bedminster, PA 18910	Houghs and Tohickon Creeks (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bristol Township Bucks County	PAR10D5311R	Keystone Industrial Park Newportville Road Bristol, PA	Neshaminy Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Plumstead Township Bucks County	PAG2000905150	Stephen Takach 5167 Valley park Road Doylestown, PA 18901	North Branch Neshaminy Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warminster Township Bucks County	PAG2000905074	McGrath Homes 1262 Wood Lane, Suite 207 Langhorne, PA 19047	UNT Little Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warrington Township Bucks County	PAG2000906016	Titus Road Outparcel, LP 4427 Spruce Street Philadelphia, PA 19104	Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Caln Township Chester County	PAG2001506022	Coatesville Area School District 545 East Lincoln Highway Coatesville, PA 19320	East Branch Brandywine Creek (CWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Sadsbury Township Chester County	PAG2001506025	West Sadsbury Associates 120 West Germantown Pike Suite 120 Plymouth Meeting, PA 19462	Buck Run (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Valley and West Caln Township Chester County	PAR10G431R	High Associates 1853 William Penn Highway P. O. Box 1008 Lancaster, PA 17605-0008	Rock Run (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Fallowfield Township Chester County	PAG200200150	West Fallowfield Christian School 795 Fallowfield Road Atglen, PA 19310	UNT East Branch Octoraro Creek	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Franklin Township Chester County	PAG2001503131	Wilkinson Builders 1020 Broad Run Road Landenberg, PA 19350	Mid Branch White Clay Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Goshen Township Chester County	PAG2001506010	PFG West Chester, LP 3415 Concord Road Suite A York, PA 17402	UNT East Branch Chester Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Chichester Township Delaware County	PAG2002306018	Chichester School District P. O. Box 2100 Boothwyn, PA 19061	Upper Chichester Township	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Trainer Borough Delaware County	PAG2002305066	AAA Group, LP 3581 Concord Road Aston, PA 19014	Marcus Hook Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Dublin Township Montgomery County	PAG2004605135	Bethel Associates, Inc. 1120 North Bethlehem Pike Spring House, PA 19477	UNT Park Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Red Hill Borough Montgomery County	PAG2004605168	Nick Paone, Inc. 3220 Bergey Road Hatfield, PA 19440	Macoby Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lower Providence Township Montgomery County	PAG2004606003	Peter Corbo 539 West Germantown Pike Norristown, PA 19403	UNT Skippack Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Cheltenham Township Montgomery County	PAG2004605225	Matrix/Ashbourne Associates Forgate Drive, CN 4000 Cranbury, NJ 08512	Tacony Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Marlborough Township Montgomery County	PAG2004605207	John Yanan P. O. Box 720 6302 Fourth Street Green Lane, PA 18954	UNT Perkiomen Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015106010	Wawa, Inc. 260 West Baltimore Pike Wawa, PA 19063	Delaware River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Williams Township Northampton County	PAG2004806023	Chrin Brothers, Inc. Attn: Greg Chrin 635 Industrial Drive Easton, PA 18042	Lehigh River WWF	Northampton County Conservation District (610) 746-1971
Olyphant Borough Lackawanna County	PAG2003506014	Danilo DeSoto T & D Alliance 141 Clay Avenue Dunmore, PA 18510	Eddy Creek WWF	Lackawanna County Conservation District (570) 281-9495
Kingston Borough Luzerne County	PAG2004006006	Wyoming Seminary 201 North Sprague Ave. Kingston, PA 18704	Susquehanna River WWF	Luzerne County Conservation District (570) 674-7991
Patton Township Centre County	PAG2001404021	Tom Songer Oakwood Centre, LP 2601 Gateway Drive Suite 100 State College, PA 16801	UNT Big Hollow Run CWF	Centre County Conservation District 414 Holmes Ave, Suite 4 Bellefonte, PA 16823
Patton Township Centre County	PAG2001406006	The Shoppes at North Atherton Daniel Hawbaker P. O. Box 135 State College, PA 16804	UNT Big Hollow Run CWF	Centre County Conservation District 414 Holmes Ave, Suite 4 Bellefonte, PA 16823
Potter Township Centre County	PAG2001406008	Mountainview Estates S & A Custom Built Homes 2121 Old Gatesburg Rd. Suite 200 State College, PA 16803	Cedar Run CWF	Centre County Conservation District 414 Holmes Ave, Suite 4 Bellefonte, PA 16823
Ferguson Township Centre County	PAG2001406009	Penn State West Campus Rob Cooper Office of Physical Plant 101P Physical Plant Bldg. State College, PA 16802	Bib Hollow CWF Thompson Run HQ-CWF	Centre County Conservation District 414 Holmes Ave, Suite 4 Bellefonte, PA 16823
Decatur Township Clearfield County	PAG2001706004	Carl C. Wright Wright-Philipsburg 532 Bryn Mawr Ave. Swarthmore, PA 19081	Moshannon Creek CWF	Clearfield County Conservation District 650 Leonard St. Clearfield, PA 16830
Bloomsburg Boro Columbia County	PAG2001906007	Bloomsburg University Eric C. Milner Buckingham Maintenance Center 400 East 2nd Street Bloomsburg, PA 17815	Fishing Creek WWF	Columbia County Conservation Dist 702 Sawmill Road, Suite 204 Bloomsburg, PA 17815 (570) 784-1310



<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Benton Township Columbia County	PAG2001906008	Northern Columbia Community & Cultural Center 700 Sawmill Road Bloomsburg, PA 17815	Fishing Creek CWF	Columbia County Conservation Dist 702 Sawmill Road, Suite 204 Bloomsburg, PA 17815 (570) 784-1310
Williamsport Lycoming County	PAG2004106001	Robert Yoder 5960 Susquehanna Trail Turbotville, PA 17772	Daughety Run CWF	Lycoming County Conservation District 542 County Farm Road, Suite 202 Montoursville, PA 17754 (570) 433-3003
Muncy Township Lycoming County	PAG2004106005	Wal-Mart Stores Sam's Club 2001 SE 10th St. Bentonville, AR 72716	Carpenter Run WWF	Lycoming County Conservation District 542 County Farm Road, Suite 202 Montoursville, PA 17754 (570) 433-3003
Delaware Township Lewis Township Northumberland County	PAG2004905003	Holy Spirit Evangelical Lutheran Church McEwansville, PA 17749	UNT Warrior Run WWF	Northumberland County Conservation District R. R. 3, Box 238C Sunbury, PA 17801
Mount Carmel Borough and Mount Carmel Township Northumberland County	PAG2004906005	Mount Carmel Municipal Authority Mount Carmel, PA 17851	Shamokin Creek WWF	Northumberland County Conservation District R. R. 3, Box 238C Sunbury, PA 17801
Point Township Northumberland County	PAG2004906006	Autumn View SR 11 Northumberland, PA 17857	UNT Susquehanna River CWF	Northumberland County Conservation District R. R. 3, Box 238C Sunbury, PA 17801
Covington Township Tioga County	PAG2005906004	Josh Lisowski 4010 Cherry Flats Road Covington, PA 16917	Marvin Creek CWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 101
Osceola Township Tioga County	PAG2005906010	Osceola Township Municipal Authority P. O. Box 249 Osceola, PA 16942	Holden Creek WWF Cowanesque River WWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 101
Kelly Township Union County	PAG2006006003	Tim Karr Peachwood Phase II, Section C 521 N. Derr Drive Lewisburg, PA 17837	West Branch Susquehanna River WWF	Union County Conservation District 88 Bull Run Crossing, Suite 5 Lewisburg, PA 16837 (570) 523-8782
East Buffalo Township Union County	PAG2006006004	Vernon Martin 1444 Salem Church Road Lewisburg, PA 17837	Turtle Creek WWF	Union County Conservation District 88 Bull Run Crossing, Suite 5 Lewisburg, PA 16837 (570) 523-8782
Buffalo Township Union County	PAG2006006005	Alan Ard Ardis Farm Market 4803 Old Turnpike Road Lewisburg, PA 17837	Limestone Run WWF	Union County Conservation District 88 Bull Run Crossing, Suite 5 Lewisburg, PA 16837 (570) 523-8782

## NOTICES

2841

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
East Buffalo Township Union County	PAG2006006006	James Hostetler Bucknell University Physical Plant Lewisburg, PA 17837	UNT to Miller Run CWF	Union County Conservation District 88 Bull Run Crossing, Suite 5 Lewisburg, PA 16837 (570) 523-8782
East Buffalo Township Union County	PAG2006006007	James Hostetler Bucknell University Physical Plant Lewisburg, PA 17837	UNT to Miller Run WWF	Union County Conservation District 88 Bull Run Crossing, Suite 5 Lewisburg, PA 16837 (570) 523-8782
Beaver County Potter Township	PAG2000406010	Richard Rylott PF Technologies, Inc. 759 Northgate Circle New Castle, PA 16105	UNT to Ohio River (WWF)	Beaver County Conservation District (724) 378-1701
Fayette County Luzerne Township	PAG2002606002	Frank Kempf Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106	Rush Run (WWF) Cox Run (WWF)	Fayette County Conservation District (724) 438-4497
Greene County Franklin Township	PAG2003006007	CNX Gas Company, LLC 4000 Brownsville Road South Park, PA 15129	Rush Run Tributaries (WWF)	Greene County Conservation District (724) 852-5278
Indiana County White Township	PAG2003206006	William J. Gatti Brown Road Housing LP 4415 5th Avenue Pittsburgh, PA 15213	UNT to Cherry Run (CWF)	Indiana County Conservation District (724) 463-8547
Washington County Chartiers Township	PAG2006306013	Chartiers Township 2 Buccaneer Drive Houston, PA 15342	UNT to Chartiers Creek (WWF)	Washington County Conservation District (724) 228-6774
Butler County Franklin Township	PAG2001005031	Church of the Living Word	Little Connoquenessing Creek CWF	Butler Conservation District (724) 284-5270
Clarion County Perry Township	PAG2001606003	Rocky River Estates Association 929 Al Smith Drive McKees Rocks, PA 15136	Allegheny River WWF	DEP, Watershed Management (814) 332-6984
Erie County North East Township North East Borough	PAG2002506002	Samuel Concilla Samson Capital Management P. O. Box 174 North East, PA 16428	Lower Reaches of Sixteen Mile Creek WWF; MF	Erie Conservation District (814) 825-6403
Erie County Summit Township	PAG2002506015	Kristen Clever Chick-fil-A 5200 Buffington Road Atlanta, GA	Fossil Creek to Walnut Creek CWF; MF	Erie Conservation District (814) 825-6403
Jefferson County Young Township	PAG2003306001	Richardson Sub-Division Scotland Richardson Construction Co., Inc. P. O. Box 96. Punxsutawney, PA	UNT Cold Spring Run CWF	Jefferson Conservation District (814) 849-7463
Lawrence County Shenango Township	PAG2003706004	Shenango Area School District 2501 Old Pittsburgh Road New Castle, PA 16101	Big Run WWF	Lawrence Conservation District (724) 652-4512
Mercer County City of Hermitage	PAG2004306005	Penn-Northwest Development Corporation 151 North Diamond Street Mercer, PA 16137-1280	UNT Shenango River	Mercer Conservation District (724) 662-2242

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Mercer County Wilmington Township	PAG2004306007	David Allshouse Ultimate Distribution Corporation 3457 Wilmington Road New Castle, PA 16105	UNT Neshannock Creek TSF	Mercer Conservation District (724) 662-2242

*General Permit Type—PAG-3*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
City of Philadelphia Philadelphia County	PAR600091	Luong Ahn d/b/a A & H Auto Parts 6255 Passyunk Ave. Philadelphia, PA 19153	Schuylkill River 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Tinicum Township Delaware County	PAR800099	Aircraft Service Intl. Group 3 Hog Island Rd. Philadelphia, PA 19153	UNT to Delaware River Mingo Creek 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
City of Philadelphia Philadelphia County	PAR900024	Philadelphia Gas Works 3100 Passyunk Ave Philadelphia, PA 19145	Schuylkill River 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
West Norriton Township Montgomery County	PAR800108	DHL Express Inc. 603 George Washington Ave. Trooper, PA 19403	Indian Creek 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Bristol Township Bucks County	PAR800107	DHL Express Inc. 2554 Ford Rd. Bristol, PA 19007	Neshaminy Creek 2F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Upper Merion Township Montgomery County	PAR800039	DHL Express, Inc. 400 River Road Conshohocken, PA 19428	Schuylkill River 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
City of Philadelphia Philadelphia County	PAR800027	CSX Transportation Inc. 38th and Jackson Sts. Philadelphia, PA 19145	Schuylkill River 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Lower Gwynedd Township Montgomery County	PAR230049	Johnson & Johnson Pharmaceutical Research & Development, LLC Welsh and McKean Roads Spring House, PA 19477	UNT to Park Creek 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Pine Grove Borough Schuylkill County	PAR132201	Gold Mills Knitting Plant P. O. Box 26929 Greensboro, NC 27419-6969	Wideawake Creek CWF	DEP—NERO Water Mgmt. Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Cumberland County Upper Mifflin Township	PAR603504	John F. Oiler Johnny's Auto Salvage 350 Brandy Run Road Newville, PA 17241	Brandy Run CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Berks County Reading City	PAR143519	United Corrstack, LLC 720 Laurel Street Reading, PA 19602-2718	Schuylkill River CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*Facility Location:  
Municipality &  
County*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Berks County Reading City	PAR323513	American Rock Salt Company, LLC 5520 Rt. 63 P. O. Box 190 Mt Morris, NY 14510-0190	Schuylkill River CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County Spring Garden Township	PAR213522	Standard Concrete Products Co. 700 North Sherman Street York, PA 17402	Mill Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County Earl Township	PAR213525	Martin Limestone New Holland Concrete P. O. Box 550 Blue Ball, PA 17506	Mill Creek CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Cumberland County South Middleton Township	PAR803641	Penske Logistics, LLC Rt. 10 Green Hills P. O. Box 7635 Reading, PA 19603	Alexander Spring Creek CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*General Permit Type—PAG-4**Facility Location &  
Municipality*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Franklin County Lurgan Township	PAG043843	Richard and Linda Runyon 6625 McClays Mill Road Newburg, PA 17240	UNT to Conodoguinet Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lebanon County East Hanover Township	PAG043844	Laborers District Council of Eastern Pennsylvania 6740 Allentown Blvd. Harrisburg, PA 17112	Indiantown Run WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County Carroll Township	PAG043845	Rodger C. Petrone 4076 Market Street Camp Hill, PA 17011	UNT to Yellow Breeches Creek CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County Carroll Township	PAG043846	Rodger C. Petrone 4076 Market Street Camp Hill, PA 17011	UNT to Yellow Breeches Creek CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County Carroll Township	PAG043847	Rodger C. Petrone 4076 Market Street Camp Hill, PA 17011	UNT to Yellow Breeches Creek CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Franklin County Southampton Township	PAG043848	Amos B. Blank 12540 Mongul Hill Road Shippensburg, PA 17257	UNT to Conodoguinet Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Beaver County Franklin Township	PAG046322	Dean Wright 125 Old Little Creek Road Harmony, PA 16037	Doe Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Allegheny County Elizabeth Township	PAG046319	Dennis Handley 683 Simpson Howell Road Elizabeth, PA 15037	UNT of Douglas Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Cranesville Borough Erie County	PAG048725	Steven R. Sawin 10015 Thrasher Road Cranesville, PA 16410	UNT to the East Branch of Conneaut Creek 15-CC	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
McKean Township Erie County	PAG049243	Robert Barko 10459 Old Route 99 McKean, PA 16426	UNT to Lamson Run 15-EC	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Vernon Township Crawford County	PAG049255	Deanna Buttray 10473 Kennedy Hill Road Meadville, PA 16335	UNT to Van Horne Creek 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-5**Facility Location: Municipality & County*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Avondale Borough Chester County	PAG050073	Walker Oil Company P. O. Box 68 Westtown, PA 19395-0068	Storm sewer to Trout Run Tributary to White Clay Creek	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Marshall Township Allegheny County	PAG056215	Sunoco, Inc. 350 Eagleview Blvd. Suite 300 Exton, PA 19341	Brush Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-7**Facility Location: County/Municipality Permit No.*

<i>Facility Location: County/Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Beaver County Chippewa Township	PAG076101	Chippewa Township Sanitary Authority 2811 Darlington Road Beaver Falls, PA 15012	Chippewa Township Wastewater Treatment Plant 701 Constitution Blvd. Beaver Falls, PA 15010	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-8 (SSN)**Facility Location: Municipality & County*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Schuylkill Township Schuylkill County	PAG080004	Philadelphia Water Department 7800 Penrose Ferry Rd. Philadelphia, PA	Tamaqua Lands (North of Rt. 209, West of Tamaqua) Schuylkill Township Schuylkill County	NERO 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511

*General Permit Type—PAG-12*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Franklin County Fannett Township	PAG123516	Leon Snyder New Hope Sow Farm 230 Poplar Road Fleetwood, PA 19522	UNT to Doylestown Stream WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

**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 Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**SAFE DRINKING WATER**

**Actions taken under the Pennsylvania Safe Drinking Water Act**

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

**Permit No 4606502** Public Water Supply.

Applicant	<b>Audubon Water Company</b> 2650 Eisenhower Drive Norristown, PA 19403
Township	Lower Providence
County	<b>Montgomery</b>
Type of Facility	PWS
Consulting Engineer	Environmental Resources Management 855 Springdale Drive Exton, PA 19341
Permit to Construct Issued	May 26, 2006

**Permit No. 0906504** Public Water Supply.

Applicant	<b>Bucks County Water and Sewer Authority</b> 1275 Almshouse Road Warrington, PA 18976
Township	Solebury
County	<b>Bucks</b>
Type of Facility	PWS
Consulting Engineer	Carroll Engineering Corporation 949 Easton Road Suite 100 Warrington, PA 18976
Permit to Construct Issued	May 26, 2006

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

**Permit No. 3480046**, Public Water Supply.

Applicant	<b>Bethlehem Authority</b> Lehigh Township <b>Northampton County</b>
Responsible Official	Jeffrey A. Andrews Superintendent Water Supply and Treatment Bethlehem Authority City Center Administration Building Room 502 10 East Church Street Bethlehem, PA 18018
Type of Facility	PWS
Consulting Engineer	Phillip McLachlan, P. E. Malcolm Pirnie, Inc. 1700 Market St., Suite 2740 Philadelphia, PA 19103
Permit to Construct Issued	May 10, 2006
Description of Action	Operations permit issuance of PWS Facilities (Filter No. 4) constructed under Permit 4805503 issued December 28, 2005.

**Permit No. 2646542**, Public Water Supply.

Applicant	<b>Camp Morasha</b> Buckingham Township <b>Wayne County</b>
Responsible Official	Moshe Medetky Camp Morasha 1118 Avenue J Brooklyn, NY 11230
Type of Facility	BVRB

Consulting Engineer Joseph Durkin, P. E.  
Reilly Associates  
222 Wyoming Avenue  
West Pittston, PA 18643-2822

Permit to Construct May 11, 2006  
Issued

Description of Action Bulk water hauling system.

**Permit No. 4506501**, Public Water Supply.

Applicant **Pennsylvania American Water Company (PAWC)**  
Middle Smithfield Township  
**Monroe County**

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

Type of Facility PWS

Consulting Engineer Daniel G. Rickard, P. E.  
Quad Three Group, Inc.  
37 North Washington Street  
Wilkes-Barre, PA 18701

Permit to Construct May 15, 2006  
Issued

Description of Action Construction permit for PAWC  
Mid-Monroe Well 3  
Treatment/Booster Station  
located at the Country Club of  
the Poconos Development.

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

**Permit No. 3605512**, Public Water Supply.

Applicant **Village Greens Golf, Inc.**

Municipality Strasburg Township

County **Lancaster**

Type of Facility Installation of nitrate removal  
and softening treatment at the  
facility. The equipment will be  
located at the snack bar and the  
Gold Course restrooms.

Consulting Engineer Robert E. Murphy, P. E.  
Murphy Engineers &  
Consultants, Inc.  
36 S. Prince Street  
Millersville, PA 17551-1900

Permit to Construct 5/3/2006  
Issued:

**Permit No. 2805510**, Public Water Supply.

Applicant **Kauffman Community Center**

Municipality Antrim Township

County **Franklin**

Type of Facility Installation of nitrate treatment  
system to reduce the elevated  
nitrate levels in the sources of  
supply. Treatment will also  
include softening and UV  
disinfection.

Consulting Engineer Lance S. Kegerreis, P. E.  
Dennis E. Black Engineering,  
Inc.  
2400 Philadelphia Avenue  
Chambersburg, PA 17201

Permit to Construct 4/24/2006  
Issued:

**Permit No. 3806502 MA, Minor Amendment**, Public Water Supply.

Applicant **City of Lebanon Authority**

Municipality Swatara Township

County **Lebanon**

Type of Facility Construction of a raw water  
interconnection to bypass the  
filtration plant in case of  
emergency.

Consulting Engineer Laurence S Zimmermann, P. E.  
Gannett Flemming, Inc.  
P. O. Box 67100  
Harrisburg, PA 17106-7100

Permit to Construct 5/22/2006  
Issued:

**Permit No. 3605513**, Public Water Supply.

Applicant **Berk Tek**

Municipality Earl Township

County **Lancaster**

Type of Facility Installation of nitrate treatment  
system to reduce the elevated  
nitrate levels in the sources of  
supply. Treatment will also  
include softening and UV  
disinfection.

Consulting Engineer G. Matthew Brown, P. E.  
ARRO Consulting, Inc.  
270 Granite Run Drive  
Lancaster, PA 17601

Permit to Construct 4/24/2006  
Issued:

**Permit No. 0605524**, Public Water Supply.

Applicant **Pennsylvania American Water Company**

Municipality Amity Township

County **Berks**

Type of Facility Addition of arsenic treatment for  
Well Nos. DG-3 and DG-4 at  
existing well site.

Consulting Engineer James C. Elliot, P. E.  
Gannett Fleming, Inc.  
P. O. Box 67100  
Harrisburg, PA 17106-7100

Permit to Construct 5/19/2006  
Issued:

**Permit No. 0105511**, Public Water Supply.

Applicant **York Springs Municipal Authority**

Municipality Huntington Township

County **Adams**

Type of Facility Installation of pH adjustment for corrosion control treatment.  
 Consulting Engineer Janet R. McNally, P. E.  
 William F. Hill & Assoc., Inc.  
 207 Baltimore St.  
 Gettysburg, PA 17325  
 Permit to Construct 5/22/2006  
 Issued:

**Operations Permit** issued to **Antrim Township Municipal Authority**, Antrim Township, Franklin County on 4/20/2006 for the operation of facilities approved under Construction Permit No. 2804507 MA.

**Operations Permit** issued to **Ridgewood Manor, Inc.**, 7360079, Rapho Township, Lancaster County on 4/10/2006 for the operation of facilities approved under Construction Permit No. 3603513.

**Operations Permit** issued to **Antrim Township Municipal Authority**, Antrim Township, Franklin County on 4/20/2006 for the operation of facilities approved under Construction Permit No. 2805503 MA.

**Operations Permit** issued to **Roaring Spring Municipal Authority**, Roaring Spring Borough, Blair County on 4/24/2006 for the operation of facilities approved under Construction Permit No. 0705501 MA.

**Operations Permit** issued to **Washington Township Municipal Authority**, Washington Township, Franklin County on 4/24/2006 for the operation of facilities approved under Construction Permit No. 2805509 MA.

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

**Permit No. 2605505**, Public Water Supply.  
 Applicant **Indian Creek Valley Water Authority**  
 P. O. Box 486  
 2068 Indian Head Road  
 Indian Head, PA 15446-0486  
 Borough or Township Saltlick Township  
 County **Fayette**  
 Type of Facility Neal's Run Well Iron Removal System  
 Consulting Engineer Bankson Engineers, Inc.  
 267 Blue Run Road  
 P. O. Box 200  
 Indianola, PA 15051  
 Permit to Construct May 18, 2006  
 Issued

**Permit No. 5606501MA, Minor Amendment.** Public Water Supply.  
 Applicant **Conemaugh Township Municipal Authority**  
 113 South Main Street  
 Davidsville, PA 15928-0429  
 Borough or Township Conemaugh Township  
 County **Somerset**  
 Type of Facility 187,000 gallon Pretoria finished water storage tank and altitude valve vault

Consulting Engineer The EADS Group, Inc.  
 450 Aberdeen Drive  
 P. O. Box 837  
 Somerset, PA 15501  
 Permit to Construct May 15, 2006  
 Issued

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

**Permit No. 2074501-MA2, Minor Amendment**

Applicant **Conneautville Borough**  
 Borough or Township Conneautville Borough  
 County **Crawford**  
 Type of Facility Public Water Supply  
 Permit to Construct 05/25/2006  
 Issued

**Operations Permit** issued to **Zelienople Borough**, 111 West New Castle Street, Zelienople, PA 16063, PWS ID 5100093, Jackson Township, **Butler County**, on May 16, 2006, for the operation of the diffused aeration systems in the existing raw water reservoirs (Nos. 1-3) to eliminate the need of copper sulfate for algae control. This approval is issued simultaneously with Construction Permit No. 3007226-MA7, issued May 16, 2006.

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1-750.20a)**

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Penn Township	20 Wayne Avenue Hanover, PA 17331	York

*Plan Description:* Whispering Run, A3-67951-188-3: The approved plan provides for a 126 lot single-family residential subdivision on 100 acres with 124 building lots, one lot for stormwater management and one lot for open space/recreation. Total estimated sewage flows are 43,050 gpd, and they will be tributary to the Hanover Borough Wastewater Treatment Plant. The proposed development is located on the east side of Beck Mill Road and at the ends of Bair Road and Pearl Drive in Penn Township, York County. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Stoneboro Borough	59 Lake Street Stoneboro, PA 16153	Mercer

*Plan Description:* The approved plan provides for the construction of grinder pump-low pressure sewer systems in four areas of need. Sewage will be conveyed to the Lakeview Joint Sewer Authority for treatment and disposal. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.



## SEWAGE FACILITIES ACT PLAN DISAPPROVAL

### Plan Disapprovals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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

*Plan Location:* Located on the north side of Spiggs Hill Road (T-557), east of SR 2018 in Susquehanna Township, Juniata County.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Susquehanna Township	R. R. 1, Box 73 Liverpool PA 17045	Juniata

*Plan Description:* The planning module, entitled David W. Weaver Subdivision, proposing 6 residential lots using individual onlot sewage disposal systems, was disapproved because the preliminary hydrogeologic study failed to accurately assess the current background nitrate-nitrogen concentrations at the site. None of the water samples taken for this study were taken from wells that are hydrogeologically connected to the site.

## 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 AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

**PECO Doylestown MGP**, Borough of Doylestown, **Bucks County**. Bruce Middletown, P. G. Jacques Whitford Company, 450 South Gravers Rd. Suite 105, Plymouth Meeting, PA 19462 on behalf of Jack Stein, Keystone Volvo, 235 Main St, Doylestown, PA 18901 has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with lead, inorganics, PAHs and other organics. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Flat Redevelopment Site**, City of Coatesville, **Chester County**. Sharon Smith, Weston Solutions, Inc. 1403 Weston Way, West Chester, PA 19380 on behalf of E. Jean Krack, Redevelopment Authority of the City of Coatesville, One City Hall Place, Coatesville, PA 19320 has submitted a Remedial Investigation Report and Risk Assessment Report concerning remediation of site soil and groundwater contaminated with inorganics and organic compounds. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Crown Cork & Seal Facility**, City of Philadelphia, **Philadelphia County**. Peter Beyer, Environmental Resources Mgmt, Inc., 855 Springdale Drive, Exton, PA 19341 on behalf of Ravi Chawla, Sant Properties, 12700 Township Road, Philadelphia, PA 19154 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents and MTBE, all other organics, fuel No. 5, unleaded gasoline and PAHs. The report is intended to document remediation of the site to meet the Site-Specific Standard and Statewide Health Standard.

**Pottstown Metal Welding**, Pottstown Borough, **Montgomery County**. Michael Raffoni, Gem Chem, Inc., 53 N. Cedar St, Lititz PA 17543 on behalf of Herb McDonald, The Fulcrum Group, 110 Pugh Road, Wayne, PA 19087 has submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soil and groundwater contaminated with lead gasoline and unleaded gasoline. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**1452 Turkey Trot Rd. Properties**, Warwick Township, **Bucks County**. Patrick S. Crawford GES, 410 Eagleview Blvd, Suite 110, Exton, PA 19341 on behalf of Marty Liebharbt, P. G. Sunoco, Inc., has submitted a 90-day report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**PECO Phoenixville MGP**, Phoenixville Borough, **Chester County**. Douglas Kier, URS Corporation, 335 Commerce Dr., Suite 300, Ft Washington, PA 19034 on behalf of Andrew Levin, Stradley, Roman, Stevens and Young, LLP, 2600 One Commerce Square, Philadelphia, PA 19103 has submitted a Remedial Investigation Report and Risk Assessment Report and Cleanup Plan concerning remediation of site soil and groundwater contaminated with PAH and lead. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Delcroft Shop Center**, Folcroft Borough, **Delaware County**. Michelle Harrison, React Environmental Svc, Inc., 6901 Kingsessing Ave, Philadelphia, PA 19142 on behalf of Lee Brahin, Garnet Assoc, LLC, 1533 Chestnut St., Philadelphia, PA 19102 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard and Site-Specific Standard.

**145 North Narberth Avenue**, Narberth Borough, **Montgomery County**. Samuel Kucia, Environmental Consulting, Inc. 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Brendan Johnson, 145 North Narberth Avenue, LLC, 7 Outlook Drive, Darien, CT 06820 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil and diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Roeser Property**, Solebury Borough, **Bucks County**. Edward H. Prout, Jr., American Resources Consultants, Inc., P. O. Box 579, Quakertown, PA 18951 on behalf of Allan Roeser, HGR Investors, LP, 140 East Butler Avenue, Chalfont, PA 18914 has submitted a Final Report concerning remediation of site soil contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**The Marketplace at Huntingdon**, Upper Moreland Township, **Montgomery County**. John T. Burkart, Landamerican Assessment Corporation 8008 Corporation Ctr. Dr., Suite 115 Charlotte, NC 28226 on behalf of Joseph Casacio, New Century Design & Construction, 2010 County Line Rd., Huntingdon Valley, PA 19006 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Colorcon Inc**, upper Gwynedd Township, **Montgomery County**. Rick Wroblewski, ERM Inc., 350 Eagleview Blvd., Ste., 200 Exton, PA 19341 on behalf of Terri Johnson, Colorcon Inc., 415 Moyer Blvd., West Point, PA 19486 has submitted a Final Report concerning remediation of site groundwater contaminated with inorganic chloride. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Thuysen Krupp Budd Co. Die Storage Yard Site**, City of Philadelphia, **Philadelphia County**. Lawrence W. Bily, CMM, RT Env. Svc., 215 W. Church Rd., King of Prussia, PA 19406 on behalf of Joseph DePascale, Hunting Fox Assoc., LP, c/o PREI, 1001 E. Hector St., Suite, 100, Conshohocken, PA 19428 has submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site groundwater and soil contaminated with VOCs, PCBs, PAH and inorganics. The report is intended to document remediation of the site to meet the Statewide Health Standard and Site-Specific Standard.

**Rt. 322 and Skelp Level Rd.**, East Bradford Township, **Chester County**. Jim Arthur, Env. Standards, 1140 Valley Forge Rd., Valley Forge, PA 19482 on behalf of Mark Halligan, Halligan Oil Co., 610 Park Way, Broomall, PA 19008 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report was submitted within 90 days of the release and is intended to document remediation of the site to meet the Statewide Health Standard.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Messiah College Hoffman UST Release**, Upper Allen Township, **Cumberland County**. HRP Associates, Inc., 4811 Jonestown Road, Suite 235, Harrisburg, on behalf of Messiah College, One College Avenue, Grantham, PA 17027, submitted a Final Report concerning remediation of site soils contaminated with No. 2 heating oil. The report is intended to document remediation of the site to the Statewide Health 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 AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

**Sunoco Elverson Valve Station**, West Nantmeal Township, **Chester County**. Lisa Holderbach, Aquaterra Tech., Inc., P. O. Box 744, West Chester, PA 19381 on behalf of Mr. and Mrs. Rod McCarthy, 18 Parkside Dr., Elverson, PA 19520, Mr. and Mrs. David Eldon, 13 Parkside Dr. Elverson, PA 19520, Janet Stockett, 19 Parkside Dr. Elverson, PA 19520 and Merle Stolfus, Stolfus Enterprises, Ltd., 26 East Main Street, Elverson, PA 19520 has submitted a Remedial Investigation Report, Risk Assessment Report and Cleanup Plan concerning the remediation of site groundwater contaminated with unleaded gasoline. The Remedial Investigation Report, Risk Assessment Report and Cleanup Plan were approved by the Department May 15, 2006.

**Reserve @ Gwynedd**, Upper Gwynedd Township, **Montgomery County**. James Stynchula, Pennoni Assoc., Inc. 3001 Market St. Philadelphia, PA 19104 on behalf of Carmen Danella, Co. Inc., 470 E. Norristown Rd., Suite 100, Blue Bell, PA 19422 has submitted a Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents. The Final report demonstrated attainment of the Site-Specific Standard and was approved by the Department on May 15, 2006.

**736-738 E. Lincoln Hwy.**, City of Coatesville, **Chester County**. Paul Marano, Advanced GeoServices Corp. 1055 Andrew Dr., Suite A, West Chester, PA 19380 on behalf of Frances M. Sheehan Brandywine Health and Housing, LP, 50 S. First Ave., Coatesville, PA 19320 has submitted a Low Risk Property Final Report concerning the remediation of site soil contaminated with unleaded gasoline. The Low Risk Property Final Report was approved by the Department on May 18, 2006.

**Flat Redevelopment Site**, City of Coatesville, **Chester County**. Sharon Smith, Weston Solutions, Inc. 1303 Weston Way, West Chester, PA 19380 on behalf of E. Jean Krack, Redevelopment Authority of the City of Coatesville, One City Hall Place, Coatesville, PA 19320 has submitted a Remedial Investigation Report and Risk Assessment Report concerning the remediation of site soil and groundwater contaminated with metals and organics compounds. The Final report demonstrated attainment of the Site-Specific Standard and was approved by the Department on May 22, 2006.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Dutch Valley Food Distributors, Inc.**, Marion Township, **Berks County**. Hafer Environmental Services, Inc., P. O. Box 4418, Reading, 19606, on behalf of Dutch Valley Food Distributors, Inc., P. O. Box 465, Myerstown, PA 17067, submitted a Final Report concerning the remediation of site soils contaminated with No. 2 diesel fuel. The final report demonstrated attainment of the nonresidential Statewide Health standard, and was approved by the Department on May 16, 2006.

**Albright College**, Reading City, **Berks County**. Synergy Environmental, Inc., 607 Washington Street, Reading, 19601, on behalf of Albright College, P. O. Box 15234, Reading, PA 19612-5234, submitted a Baseline Environmental Report concerning the remediation of site soils and groundwater contaminated with metals, PCB's, VOCs and SVOCs. The report was approved by the Department on May 19, 2006.

**Sheetz 38**, City of Altoona, **Blair County**. Groundwater & Environmental Services, Inc., 6 Sheraton Drive, Suite 2, Altoona, PA 16601, on behalf of Sheetz, Inc., 5700 6th Avenue, Altoona, PA 36334, submitted a Final Report concerning remediation of site soils and groundwater contaminated with kerosene and gasoline. The final report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on May 24, 2006.

**The EICH Group Realty**, Bedford Borough, **Bedford County**. GeoEnvironmental Consortium, Inc., 701 Freepoint Road, South Building, Pittsburgh, PA 15238, on behalf of The EICH Group Realty, 108 East Pitt Street, Bedford, PA 15522-1317, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on May 25, 2006.

#### RESIDUAL WASTE GENERAL PERMITS

**Permit Renewed Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and residual waste regulations for a General Permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit No. WMGR061. Thermo-Dopolymerization Process, LLC**, 460 Hempstead Avenue, West Hempstead, NY 11552. The facility is located on the Philadelphia Navy Yard. General Permit No. WMGR061 for the processing of food processing waste, rendering waste, waste tires, mixed plastics, presorted municipal waste and sewage sludge prior to beneficial use as fuel, fuel feedstock or as an ingredient in fertilizer. The permit was renewed by Central Office on May 25, 2006.

Persons interested in reviewing the general permit should contact Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permits deemed administratively complete 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.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 301292. Craftmaster Manufacturing Inc.**, Shiner Road, P. O. Box 311, Towanda, PA 18848-0311, located in Wysox Township, **Bradford County**. The permit renewal application was deemed administratively complete by the Williamsport Office on May 19, 2006.

Persons interested in reviewing the permit should contact David Garg, P. E., Facilities Manager, Williams-

port Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

**Permit modification approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 301315. PPL Electric Utilities Corporation**, 18 McMichael Road, Washingtonville, PA 17884, for Ash Basin 1 at the PPL Montour Steam Electric Plant located in Derry Township, **Montour County**. The major permit modification for the groundwater abatement plan for a residual waste disposal impoundment was approved by the Williamsport Regional Office on May 19, 2006.

Persons interested in reviewing the permit may contact David Garg, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, Telephone (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

**46-312-026GP: Sunoco Partners Marketing and Terminal, LP** (1801 Market Street—19/10 PC, Philadelphia, PA 19103) on May 23, 2006, to operate a storage tank No. 11 internal floating roof replacement in Upper Moreland Township, **Montgomery County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**40-302-156GP1: The Ohio Mattress Company Licensing and Components Group** (One Office Parkway at Sealy Drive, Trinity, NC 27370) on May 23, 2006, to construct and operate Boiler No. 1 at the Sealy facility in the Crestwood Industrial Park, Wright Township, **Luzerne County**.

**40-302-157GP1: The Ohio Mattress Company Licensing and Components Group** (One Office Parkway at Sealy Drive, Trinity, NC 27370) on May 23, 2006, to construct and operate of Boiler No. 2 at the Sealy facility in the Crestwood Industrial Park, Wright Township, **Luzerne County**.

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

**GP-24-160: North Star Aggregates—Oyster Run Mine** (SR 219, Brockport, PA 15823) on May 18, 2006, for a portable nonmetallic processing plant in Horton Township, **Elk County**.

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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

**46-0016A: Handy and Harman Tube Company, Inc.** (701 West Township Line Road, Norristown, PA 19403) on May 22, 2006, to operate a baghouse control system in East Norriton Township, **Montgomery County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**48-320-014: Cadmus Investments, LLC** (1991 Northampton Street, Easton, PA 18042) on May 18, 2006, to construct an offset web printing press (replacement of existing unit) in Wilson Borough, **Northampton County**.

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

**06-03005C: Rohm and Haas Chemicals, LLC** (150 Columbia Street, P. O. Box 15209, Reading, PA 19612-5209) on May 22, 2006, to modify an existing thermo-plastic manufacturing facility in the City of Reading, **Berks County**.

**38-05027A: Reading Materials, Inc.** (P. O. Box 1467, Skippack, PA 19474-1467) on May 24, 2006, to convert the existing rotary dryer burner to be capable of burning No. 2 fuel oil, No. 4 fuel oil and On-Specification Waste Derived Liquid Fuel in addition to natural gas. The facility will also be authorized to use Recycled Asphalt Pavement at the facility. The plant will continue to be controlled by a cyclone and a fabric filter baghouse in North Annville Township, **Lebanon County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.*

**32-00059A: Reliant Energy** (121 Champion Way, Canonsburg, PA 15317) on May 24, 2006, to replace the existing B Auxiliary Boiler with a new, Alstom Power 32VP2180, 212 mmBtu/hr gas/oil fired boiler, at the Conemaugh Power Plant as described in its application to the Department received on November 7, 2005. The unit will operate as a backup and will limited to an annual capacity factor of 10%.

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

**25-069K: Engelhard Corp.** (1729 East Ave., Erie PA 16503) on May 15, 2006, to install a Palladium Acetate process at the Erie facility in the City of Erie, **Erie County**.

**33-174A: Brownlee Lumber Co., Inc.** (Hazen Richardsville Road, Brookville, PA 15825) on May 19, 2006, to construct a wood fired boiler rated at 6 mmBtu/hr and multiclone in Warsaw Township, **Jefferson County**. The facility is a minor facility.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

**46-313-146: Penn Color, Inc.** (2755 Bergey Road, Hatfield, PA 19440) on May 18, 2006, to operate a base pigment dispersion facility in Hatfield Township, **Montgomery County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**55-399-006: Apex Homes, Inc.** (7172 Route 522, Middleburg, PA 17842) on May 22, 2006, to operate a modular home manufacturing operation on a temporary basis until September 19, 2006, in Middlecreek Township, **Snyder County**. The plan approval has been extended.

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

**62-017J: United Refining** (Bradley and Dobson Streets, Warren PA 16365) on May 31, 2006, to modify plan approval 62-302-010A to reflect the CO emission limits based on stack tests rather than AP-42 emission factor estimates at the Warren Refinery in Warren, **Warren County**. The refinery is a Title V Facility.

**10-345A: Allegheny Mineral Corp.—Murrinsville Quarry** (102 VanDyke Road, Harrisville, PA 16038) on May 31, 2006, to install a Limestone Processing Facility in conjunction with their new Limestone Mining Operation in Marion Township, **Butler County**.

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

**AMS 05186: Sunoco Chemicals—Frankford Plant** (Margaret and Bermuda Streets, Philadelphia, PA 19137) on May 30, 2006, to replace the individual column capacities from permit applications with facility-wide production capacities of 1,115 million pounds of phenol per rolling 12-month period, 691 million pounds of acetone per rolling 12-month period, and 78 million pounds of alpha-methyl styrene per rolling 12-month period in the City of Philadelphia, **Philadelphia County**.

**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**22-05051: The Hershey Co.** (19 East Chocolate Avenue, P. O. Box 819, Hershey, PA 17033-0819) on May 25, 2006, to operate their chocolate candy-manufacturing facility in Derry Township, **Dauphin County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**43-00196: General Electric Transportation Systems** (1503 West Main Street Extension, Grove City, PA 16127) on May 16, 2006, to issue the Title V Amendment

Operating Permit to operate paint booths (two units), diesel engine test cell, diesel fired pump, boilers (two units) and miscellaneous natural gas fired source locate in Grove City, **Mercer County**. As a result of potential emissions of NOx and VOC, the facility is not a major source for VOC but it is a major source for NOx and therefore subject to Prevention of Significant Deterioration and Reasonable Available Control Technology. The issued amended Title V Operating Permit does not reflect any changes in air emission from the facility. The facility is subject to Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The facility is not subject to Compliance Assurance Monitoring under 40 CFR Part 64.

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

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

**01-05017: Quebecor World Fairfield, Inc.** (100 North Miller Street, Fairfield, PA 17320-9707) on May 23, 2006, to operate their trade book publishing facility in Fairfield Borough, **Adams County**. This is a renewal of the state-only operating permit.

**36-03066: Perdue Farms, Inc.** (1609 River Road, Marietta, PA 17547-9504) on May 24, 2006, to operate a grain handling and storage facility in East Donegal Township, **Lancaster County**.

**67-05093: Kinsley Construction, Inc.** (P. O. Box 2886, York, PA 17405-2886) on May 19, 2006, operate their asphalt plant in Manchester Township, **York County**. This operating permit was administratively amended due to change of ownership. This is revision No. 1.

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

**63-00628: Specialty Printing, Inc.** (P. O. Box 104, 3rd Street and PA RR, Charleroi, PA 15022) on May 19, 2006, to operate web-offset printing presses at their facility in Charleroi, **Washington County**.

**26-00032: Uniontown Hospital Association** (500 West Berkeley Street, Uniontown, PA 15401) on May 16, 2006, to operate a Cleaver Brooks natural gas/oil fired boiler and a Burnham natural gas/oil fired boiler at their medical facility in Uniontown, **Fayette County**.

**04-00721: Beaver Valley Asphalt Corp.** (6010 Woodlawn Road, Aliquippa, PA 15714) on 18 May 2006, to operate a Hot Mix Asphalt concrete plant at their facility in Aliquippa, **Beaver County**.

**63-00633: The Woods Quality Cabinetry Co.** (42 Eighty-Four Drive, Eighty Four, PA 15330) on May 24, 2006, for a cabinet manufacturing process at their Eighty Four Plant in South Strabane Township, **Washington County**.

**26-00488: Laurel Aggregates, Inc.** (P. O. Box 23, Gans, PA 15439-0023) on May 26, 2006, at the Springhill facility in Springhill Township, **Fayette County**. The facility's major sources of emissions include a limestone crushing/scencing plant.

**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.**

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

**65-00802: Beckwith Machinery Co.—Delmont Plant** (P. O. Box 140, Delmont, PA 15626) on May 11, 2006 to change the responsible official in Salem Township, **Westmoreland County**. The permit was revised and reissued

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**33-00033: Owens-Brockway Glass Container Inc.—Plant No. 18** (Cherry Street, Brockway, PA 15824) on May 24, 2006, for an Administrative Amendment of the Title V Operating Permit, to change the name of responsible official. The facility is in Brockway Borough, **Jefferson County**.

**33-00002: Owens-Brockway Glass Container Inc.—Plant No. 19** (Route 219N, Brockway, PA 15824) on May 24, 2006, for an Administrative Amendment of the Title V Operating Permit, to change the name of responsible official. The facility is in Snyder Township, **Jefferson County**.

**25-00952: Bush Industries of Pennsylvania, Inc.** (2455 Robinson Road, West, Erie, PA 16509) on May 25, 2006, for an Administrative Amendment of the natural minor operating permit to incorporate the conditions of Plan Approval No. 25-952F into the operating permit. The facility is in Summit Township, **Erie County**.

**ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21).** The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

*Coal Permits Actions*

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

**03991301 and NPDES Permit No. PA0235407, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201), to revise the permit for the Logansport Mine in Bethel Township, **Armstrong County** to add underground permit and subsidence control plan area acres.

Underground Acres Proposed 79.8, SCP Acres Proposed 79.8. No additional discharges. Application received November 2, 2005. Permit issued May 23, 2006.

**30841316 and NPDES Permit No. PA0213535, Consol Pennsylvania Coal Company**, (1525 Pleasant Grove Road, P. O. Box J, Claysville, PA 15323), to revise the permit for the Bailey Mine and Prep Plant in Richhill Township, **Greene County** to install four South No. 4 Airshaft, boreholes, facilities and NPDES discharge point. Surface Acres Proposed 14.7. Receiving stream: Barney's Run, classified for the following use: WWF. Application received June 22, 2005. Permit issued May 23, 2006.

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

**11960104 and NPDES No. PA0213365. L & J Energy Company, Inc.**, P. O. Box J, Grampian, PA 16838, permit renewal for reclamation only of a bituminous surface auger mine in Susquehanna Township, **Cambria County**, affecting 108.2 acres. Receiving streams: West Branch Susquehanna River; UNTs to West Branch Susquehanna River classified for the following uses: WWF; CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 4, 2006. Permit issued: May 25, 2006.

**Permit No. 32960102 and NPDES No. PA 0213314. AMFIRE Mining Company, LLC**, One Energy Place, Latrobe, PA 15650, permit renewal for reclamation only of a bituminous surface auger mine in Canoe Township, **Indiana County**, affecting 262 acres. Receiving streams: UNTs to Canoe Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 22, 2006. Permit issued: May 22, 2006.

**11020103 and NPDES No. PA0249335. Gator Coal, LP**, P. O. Box 418, Elderton, PA 15736-0418, transfer of an existing bituminous surface auger mine from L & J Energy Company, P. O. Box J, Grampian, PA 16838, located in Susquehanna Township, **Cambria County**, affecting 324.5 acres. Receiving streams: Douglas Run; Peg Run; West Branch of Susquehanna River classified for the following uses: CWF; CWF; WWF. There are no potable water supply intakes within 10 miles downstream. Application received February 16, 2006. Permit issued: May 25, 2006.

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

**65010102 and NPDES Permit No. PA0202967. Coal Loaders, Inc.** (210 East Main Street, P. O. Box 556, Ligonier, PA 15658). Permit revised to add removal of the Sewickley coal seam and add mining and reclamation areas at an existing bituminous surface mining site located in Fairfield Township, **Westmoreland County**, now affecting 146.8 acres. Receiving streams: Hypocrite Creek, Hannas Run, and UNTs to Hypocrite Creek. Application received: February 10, 2006. Revised permit issued: May 18, 2006.

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

**33990108. T.L.H. Coal Company** (4401 Pollock Road, Marion Center, PA 15759) Revision to an existing bituminous strip operation to change the postmining land use from forestland to unmanaged natural habitat on the Brian and Tami Setree property in Young Township, **Jefferson County** affecting 49.5 acres. Receiving

streams: UNT to Sawmill Run. Application received: March 15, 2006. Permit Issued: May 24, 2006.

**33723006 and NPDES Permit No. PA0603406. Keystone Coal Mining Corporation** (400 Overview Dr., P. O. Box 219, Shelocta, PA 15774) Renewal of an existing bituminous strip and auger operation in Winslow Township, **Jefferson County** affecting 450.2 acres. Receiving streams: UNTs to Soldier Run and Soldier Run. Application received: January 24, 2005. Permit Issued: May 23, 2006.

*Noncoal Permits Actions*

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

**10960301 and NPDES Permit No. PA0227196. Quality Aggregates, Inc.** (200 Neville Road, Neville Island, PA 15225) Revision to an existing limestone operation to add 9.4 acres in Marion Township, **Butler County**. Total SMP acreage is now 131.8 acres. Receiving streams: UNTs to Blacks Creek and UNTs to Slippery Rock Creek. Application received: March 1, 2006. Permit Issued: May 24, 2006.

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

**Permit No. 08910302 and NPDES No. PA 0206822. Bishop Brothers Construction Co., Inc.** (P. O. Box 289, Ulster, PA 18850), transfer of an existing bituminous large noncoal surface mine from Carl Hill Construction, Inc., (R. R. 1, PA 18850), located in Sheshequin Township, **Bradford County**, affecting 12.0 acres. Receiving stream: Susquehanna River North Branch classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is Edgewood, Trailer Park, Noncommunity Drilled Well. Application received May 16, 2006.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**58050840. Brian Gesford** (R. R. 6, Box 6160, Montrose, PA 18801-9240), commencement, operation and restoration of a quarry operation in Springville Township, **Susquehanna County** affecting 3.0 acres. Receiving stream: none. Application received August 24, 2005. Permit issued May 23, 2006.

**35060801. Stafursky Paving Co., Inc.** (502 Main Street, Archbald, PA 18403), commencement, operation and restoration of a quarry operation in Carbondale Township, **Lackawanna County** affecting 5.0 acres. Receiving stream: none. Application received April 5, 2006. Permit issued May 23, 2006.

**7373SM3C5 and NPDES Permit PA0593206. Lehigh Asphalt Paving & Construction Co.** (P. O. Box 549, Tamaqua, PA 18252), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in East Penn Township, **Carbon County**. Receiving stream: UNT to Lizard Creek. Application received April 6, 2006. Renewal issued May 25, 2006.

**ACTIONS ON BLASTING ACTIVITY APPLICATIONS**

**Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151—161) and 25 Pa. Code § 211.124. 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.**

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

**26064003. Mashuda Corporation** (21101 Route 19, Cranberry Township, PA 16066). Permit issued for construction of the Mon Fayette Expressway Section 51B, located in North Union and Menallen Townships, **Fayette County**, with an expected duration of 17 months. Permit issued: May 24, 2006.

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

**61064002. Wampum Hardware** (130 Weston Road, Grove City, PA 16127). Blasting activity permit for residential construction in Mineral Township, **Venango County**. This blasting activity permit will expire on June 22, 2006. Application received: May 15, 2006. Application Issued: May 22, 2006.

**42064002. Belden & Blake Corporation** (1185 East Main Street, Bradford, PA 16701). Blasting activity permit for the construction of roads for well exploration in Lafayette Township, **McKean County**. This blasting activity permit will expire on May 22, 2007. Application received: May 22, 2006. Application Issued: May 22, 2006.

**24064003. Onyx Greentree Landfill, LLC** (635 Toby Road, Kersey, PA 15846). Blasting activity permit for landfill expansion in Fox Township, **Elk County**. This blasting activity permit will expire on May 23, 2007. Application received: May 22, 2006. Application Issued: May 23, 2006.

**42064003. Schreiner Oil and Gas, Inc.** (7447 Arlington Road NW, Massillon, OH 44646). Blasting activity permit for the construction of roads for well exploration in Lafayette Township, **McKean County**. This blasting activity permit will expire on May 24, 2007. Application received: May 24, 2006. Application Issued: May 24, 2006.

**62064001. Gas and Oil Management Associates, Inc.** (P. O. Box 194, 601 Royse Avenue, Youngsville, PA 16371). Blasting activity permit for the construction of roads for well exploration in Mead Township, **Warren County**. This blasting activity permit will expire on May 24, 2007. Application received: May 24, 2006. Application Issued: May 24, 2006.

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

**17064001. Whitetail Contracting** (287 Bloomington Ave. Ext., Curwensville, PA), blasting for GFCC Project 17-05-10, reclamation, Longe No. 2 operation located in Karthaus Township, **Clearfield County**. Permit issued May 23, 2006. Permit expiration date is May 23, 2008.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**36064004. ABEL Construction Co., Inc.** (P. O. Box 476, Mountville, PA 17554), construction blasting at The Summit At Stonemill Subdivision in West Donegal Township, **Lancaster County** with an expiration date of May 4, 2007. Permit issued May 22, 2006.

**36064005. ABEL Construction Co., Inc.** (P. O. Box 476, Mountville, PA 17554), construction blasting at The Orchards/Lot 178 in East Donegal Township, **Lancaster County** with an expiration date of May 17, 2007. Permit issued May 22, 2006.

**38064004. PACT Construction, Inc.** (P. O. Box 74, Ringoes, NJ 08551), construction blasting at the Fredericksburg Sewer & Water Authority Monroe Valley Sanitary Sewer Project Contract No. 1 in Bethel and

Swatara Townships, **Lebanon County** with an expiration date of May 17, 2007. Permit issued May 22, 2006.

**35064107. ER Linde Construction Corp.** (9 Collan Park, Honesdale, PA 18431), construction blasting for Harmony Hills in Moscow Borough, **Lackawanna County** with an expiration date of April 30, 2007. Permit issued May 22, 2006.

**45064140. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Jonah's Estates in Polk and Penn Forest Townships, **Monroe and Pike Counties** with an expiration date of June 30, 2007. Permit issued May 22, 2006.

**48064114. Silver Valley Drilling & Blasting, Inc.** (R. R. 4 Box 4196, Saylorsburg, PA 18353), construction blasting for Prologis Park 33 in Lower Nazareth and Palmer Townships, **Northampton County** with an expiration date of May 15, 2007. Permit issued May 22, 2006.

**52064119. Silver Valley Drilling & Blasting, Inc.** (R. R. 4 Box 4196, Saylorsburg, PA 18353), construction blasting for Pocono Mt. Lake Estates in Delaware, Dingsman and Lehman Townships, **Pike County** with an expiration date of May 17, 2007. Permit issued May 22, 2006.

**64064106. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for Bunnell Development in Berlin Township, **Wayne County** with an expiration date of May 14, 2007. Permit issued May 22, 2006.

**64064107. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Wallenpaupack Estates in Paupack Township, **Wayne County** with an expiration date of June 30, 2007. Permit issued May 22, 2006.

**06064113. Schlouch, Inc.** (P. O. Box 69, Blandon, PA 19510), construction blasting for Middle Creek Farms in Oley Township, **Berks County** with an expiration date of May 1, 2007. Permit issued May 23, 2006.

**15064115. Horst Drilling & Blasting, Inc.** (141 Ranck's Church Road, New Holland, PA 17557), construction blasting for Dupont Property in West Bradford Township, **Chester County** with an expiration date of May 23, 2007. Permit issued May 23, 2006.

**36064152. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting for Glick Farm sewage treatment plant in Providence Township, **Lancaster County** with an expiration date of May 30, 2007. Permit issued May 23, 2006.

**46064122. Austin Powder Company** (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Windlestrae Development in New Hanover Township, **Montgomery County** with an expiration date of May 18, 2007. Permit issued May 23, 2006.

**36064153. Keystone Blasting Service** (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for Silver Hill Development in Upper Leacock Township, **Lancaster County** with an expiration date of December 30, 2007. Permit issued May 24, 2006.

**38064005. Abel Construction Co., Inc.** (P. O. Box 476, Mountville, PA 17554), construction blasting at Village of Springbrook Farms Phase 3 in South Londonderry Township, **Lebanon County** with an expiration date of May 22, 2007. Permit issued May 25, 2006.

**36064006. National Earth Services** (245 Butler Avenue, Lancaster, PA 17601) and D. C. Guelich Explosives Company, (P. O. Box 245, Thomasville, PA 17364), con-

struction blasting at Milton Grove Landfill in Mount Joy Township, **Lancaster County** with an expiration date of May 22, 2007. Permit issued May 25, 2006.

**01064112. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Villas at Cattail sewer interceptor in Conewago Township, **Berks County** with an expiration date of July 30, 2006. Permit issued May 26, 2006.

**28064149. David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for L & S Stone North Plant Parking Lot in Antrim Township, **Franklin County** with an expiration date of May 18, 2007. Permit issued May 26, 2006.

**28064150. Geological Technologies, Inc.** (P. O. Box 70, Falling Waters, WV 25419), construction blasting for a single dwelling in Guilford Township, **Franklin County** with an expiration date of May 1, 2007. Permit issued May 26, 2006.

**28064151. Geological Technologies, Inc.** (P. O. Box 70, Falling Waters, WV 25419), construction blasting for City Center in Chambersburg Borough, **Franklin County** with an expiration date of May 1, 2007. Permit issued May 26, 2006.

**67064119. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting for Orchard Business Park in East Manchester Township, **York County** with an expiration date of May 15, 2007. Permit issued May 26, 2006.

## 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 Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.



For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 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**

*Northeast Regional Office, Watershed Management Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E48-356. Lower Mount Bethel Township**, P. O. Box 257, 2004 Hutchinson Avenue, Martins Creek, PA 18063. Lower Mount Bethel Township, **Northampton County**, Army Corps of Engineers Philadelphia District.

To construct and maintain an approximate 2,835 LF channel change in a tributary to the Delaware River (CWF) consisting of a grass-lined trapezoidal channel having a bottom width of 10 feet and a minimum depth of 2.5 feet for the purpose of stabilizing an eroded watercourse. The project is located northeast of the intersection of Belvidere Road and Hillendale Road (Bangor, PA Quadrangle N: 6.7 inches; W: 2.6 inches). Subbasin: 1F

*Northcentral Region: Water Management Program Manager; 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E08-433. Schrader Creek Watershed Association**, c/o Hugh McMahon, R. D. 2, Box 292, Towanda, PA 18848. Water Obstruction and Encroachment Joint Permit for three passive treatment systems.

In Leroy Township, **Bradford County**, ACOE Baltimore District, (Leroy, PA Quadrangle N: 0.5 inch; W: 13.1 inches).

*Site #1*—Little Schrader Creek, construct, operate and maintain one 3-foot high low head dam (containing two weir structures), 35 linear feet each of 36-inch diameter HDPE pipe and 48-inch diameter HDPE pipe and associated 35 linear feet of rip-rap protection, 7,500 square foot ALB treatment facility.

In Leroy Township, Bradford County, ACOE Baltimore District, (Canton, PA Quadrangle N: 0.5 inch; W: 0.5 inch).

*Site #2*—Pine Swamp Run, construct, operate and maintain one 3-foot high low head dam (containing two weir structures), a 7,500 square foot ALB treatment facility and a 5,000 square foot AVFW treatment facility.

In Canton Township, Bradford County, ACOE Baltimore District (Grover, PA Quadrangle N: 17.49 inches; W: 6.25 inches).

*Site #3*—Lye Run, construct, operate and maintain one 3-foot high low head dam (containing two weir structures), 35 linear feet of 48-inch diameter HDPE pipe and associated 20 linear feet of rip-rap protection, 7,500

square foot ALB treatment facility and 7,500 square foot AVFW treatment facility while permanently impacting 432 square feet of PEM wetland.

All impacted streams are Exceptional Value Fisheries. This permit also authorizes the construction, operation, maintenance and removal of temporary access roads, channel diversions, cofferdams and stockpiles in and along Little Schrader Creek, Pine Swamp Run and Lye Run. All temporary facilities used for project construction shall be removed from floodplain areas; upon project completion, all areas of disturbance shall be restored and stabilized within 20 days.

**E08-437. Larry Fulmer**, P. O. Box 25, Wysox, PA 18854. Water Obstruction and Encroachment Joint Permit, Laning Creek Stabilization Project near SR 2032 Masonite Road, in Wysox Township, **Bradford County**, ACOE Baltimore District (Towanda, PA Quadrangle N: 3.13 inches; W: 5.76 inches).

To realign the stream channel and to construct, operate and maintain 570 linear feet of rip-rap toe protection and six rock barbs for grade control or stabilization of Laning Creek: a WWF. The channel relocation and stream restoration project shall be limited to a maximum length of 840 feet in Laning Creek. The rock barb structures shall be constructed of a minimum of R-6 rock. The restoration project will impact 840 linear feet of Laning Creek that is located along the western right-of-way of SR 2032 Masonite Road immediately south of SR 0006 and SR 2032 Masonite Road intersection. This permit also authorizes the construction, operation, maintenance and removal of temporary access roads, channel diversions, cofferdams and stockpiles in and along Laning Creek. All temporary facilities used for project construction shall be removed from floodplain areas; upon project completion, all areas of disturbance shall be restored and stabilized within 20 days. This permit does not authorize any temporary or permanent impact to the wetlands adjacent to project area.

**E18-405. William J. Baney**, 364 Fishing Creek Road, Mill Hall, PA 17751. Baney Bridge, in Porter Township, **Clinton County**, ACOE Baltimore District (Beech Creek, PA Quadrangle N: 13.2 inches; W: 3.48 inches).

To construct and maintain a metal grate private walk bridge with a 68-foot clear span, 4-foot wide, 11-foot minimum underclearance and preexisting stone abutment on the right bank to cross Fishing Creek located 1.3 miles on Fishing Creek Road from its intersection with Clintondale Hill Road. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E18-407. Thomas Wagner**, 206 Davis St., Mill Hall, PA 17751, house addition, in Mill Hall Borough, **Clinton County**, ACOE Baltimore District (Mill Hall, PA Quadrangle N: 18.93 inches; W: 15.27 inches).

This permit authorizes construction, operation and maintenance of a 6-foot by 8-foot addition in the floodway of Fishing Creek. This project is located on Davis Street in the Borough of Mill Hall. This permit was issued under Section 105.13(e) "Small Projects."

**E18-408. Department of Conservation and Natural Resources**, 15187 Renovo Road, Renovo, PA 17764. Middle Branch 2- Chuck Keiper Trail Bridge, in Beech Creek Township, **Clinton County**, ACOE Baltimore District (Renovo NE, PA Quadrangle N: 16.53 inches; W: 0.53 inch).

To construct, operate and maintain an aluminum I-beam wood deck pedestrian bank-to-bank bridge with an

18-foot clear span, wooden abutments and a 3-foot underclearance to carry the Chuck Keiper Hiking Trail over East Branch Big Run located 1.1 miles downstream of the Run's crossing of Coon Run Road. This project proposes to indirectly impact 3 linear feet of East Branch Big Run, which is classified as an Exceptional Value stream.

**E41-564. Joseph G. Sidler**, 539 Keller Loop, Williamsport, PA 17701. Small Projects Water Obstruction and Encroachment Joint Permit, in Woodward Township, **Lycoming County**, ACOE Susquehanna River Basin District (Linden, PA Quadrangle N: 17.32 inches; W: 3.80 inches).

To construct and maintain a 68 foot by 12 foot residential structure and associated 23 foot by 24 foot deck in the floodway of the West Branch of the Susquehanna River, all of which is located 0.5 mile south of the intersection of SR 0220 and Water Street in Woodward Township, Lycoming County. This project does not propose to impact any wetlands. This permit was issued under Section 105.13(e) "Small Projects."

**E41-562. Justin Bieber**, 690 P. Houseknecht Road, Muncy, PA 17756. Water Obstruction and Encroachment Joint Permit, in Moreland Township, **Lycoming County**, ACOE Susquehanna River Basin District (Hughesville, PA Quadrangle N: 9.75 inches; W: 0.61 inch).

To construct and maintain a 56-foot by 12-foot steel I-beam bridge on a skew of 90° in Laurel Run, 0.5 mile south east of the intersection of SR 0442 and P. Houseknecht Road along (T-662) P. Houseknecht Road. This project proposes to permanently impact 56 linear feet of Laurel Run, which is, designated a HQ-CWF stream and does not propose to impact any jurisdictional wetlands. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E47-083. PPL Montour, LLC, PPL Generation, LLC**, 2 N. Ninth Street, Allentown, PA 18101-1179. Flue Gas Desulfurization Scrubber Project in Derry Township, **Montour County**, Baltimore ACOE District (Washingtonville PA Quadrangle N: 12.5 inches, W: 4.5 inches).

The applicant proposes to amend permit number E47-083 to construct a 12-mile water pipeline to carry water removed from the residuum at the PPL plant back to the West Branch of the Susquehanna River. The residuum will be discharged through a 24-inch diffuser that will extend 122 linear feet into the river from the waters edge. The main line of the diffuser will be encased in concrete 2 feet below the bed of the river. Eighteen 4-inch nozzles will extend 6 inches above the top elevation of the concrete encasement or the bed of the river, whichever is lower. This structure will be located immediately downstream of the existing plant intake. The pipeline will follow primarily the same alignment as the existing pipeline with some deviations due to constraints. Temporary impacts of palustrine emergent wetlands will be 4.472 acres, 0.657 acre of palustrine scrub shrub wetlands and 1.552 acres of palustrine forested wetland and will impact 23 waterways that drain to the major watershed of Chillisquaque Creek, Warrior Run and the Susquehanna River. A total of 768 linear feet of temporary stream impacts are intended during construction. A minimum of 5 acres of wetlands will be constructed as mitigation associated with the impacts from the project. These wetlands will be created by means of plugging of a main drainage ditch, placement of clean organic material,

spreading of wetland plant seed and adding plantings to complete the project. All streams impacted by the project are WWFs.

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

**E63-583. Center-West Joint Sewer Authority**, P. O. Box 542, Brownsville, PA 15417. To construct an aerial pipeline crossing in Centerville Borough, **Washington County**, Pittsburgh ACOE District. (California, PA Quadrangle N: 4.25 inches; W: 5.0 inches and Latitude: 40° 01' 24"—Longitude: 79° 54' 39"). To construct and maintain an aerial pipeline crossing across the channel of a UNT to the Monongahela River (WWF), to construct an extension to the existing 66-inch diameter culvert in a UNT to the Monongahela River (WWF) located under East End Road on the downstream side consisting of a 66-inch diameter culvert 15.0 feet in length and to construct and maintain an aerial pipeline crossing across said stream located just downstream from East End Road for the purpose of constructing a sewage collection system and treatment facilities. The project is located on the southside of SR 88 approximately 800.0 feet east from the intersection of SR 88 and Brownsville Road and will impact approximately 30.0 feet of stream channel.

**E65-885. Hempfield Industries, LTD**, 3100 Grand Avenue, Pittsburgh, PA 15225. To construct a stream enclosure in Southwest Greensburg Borough, **Westmoreland County**, Pittsburgh ACOE District. (Greensburg, PA Quadrangle N: 6.5 inches; W: 6.5 inches and Latitude: 40° 17' 11.23"—Longitude: 79° 32' 42.97"). To construct and maintain a 97.3-foot long stream enclosure by covering the existing rectangular channel of Jack Run (WWF) having an opening of 23.8 feet wide by 10.4 feet high with concrete slabs on the 24-inch diameter supports outside of the channel for the purpose of developing a shopping center. The project is located between two stream enclosures creating a total of 318 linear feet of stream enclosure, along SR 119 at SR 30 bypass exit.

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## SPECIAL NOTICES

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### Request for Proposals for Municipal Solid Waste Capacity

The following notice is placed through the Department of Environmental Protection (Department) as required by section 502(d) of the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101.

In accordance with Act 101 and 25 Pa. Code Chapter 272 (relating to municipal waste planning, recycling and waste reduction), Lackawanna County is seeking waste disposal capacity for municipal waste (MSW) for a minimum of 5 years with an option to extend said capacity for an additional 5 years, for a total of 10 years. Lackawanna County is hereby soliciting responses to qualify facilities to provide processing/disposal capacity for County-generated MSW, to begin on or after July 15, 2006.

Copies of Lackawanna County's Facility Qualification Request (FQR) may be obtained from Lackawanna County Solid Waste Authority's engineer, Clean Air Group, Inc., 401 Davis Street, Clarks Summit, PA 18411, (570) 586-9700, fax (570) 586-6728. 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 copies to the address listed previously, Attention Joseph Guzek, P. E. by 3:30 p.m. on July 15, 2006. Qualified facilities

will be notified once all applications have been reviewed by the Lackawanna County Solid Waste Advisory Committee.

Lackawanna County reserves the right to reject any or all responses and to waive any informalities in the solicitation process.

**Recycling Grant Awards Under the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101**

The Department of Environmental Protection (Department) announces the following grants to municipalities for recycling programs under the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101, P. L. 556, section 902.

Grant funds are used to develop and implement recycling programs. Municipalities and counties are eligible for up to 90% funding of approved recycling program costs. Municipalities considered financially distressed under the Financial Distressed Communities Act, P. L. 246, No. 47 of 1987, are eligible to receive funding for an additional 10% of approved costs. All 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 Todd Pejack, Recycling Grants Coordinator, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472.

**Act 101**

**Section 902 Recycling Development and Implementation Grants**

**Grant Applications Submitted by the June 17, 2005, Deadline  
May 30, 2006**

	<i>Applicant</i>	<i>Project</i>	<i>Grant Award</i>
<b>Southeast Region</b>			
1	Buckingham Township Bucks County	Recycling Project Development	\$10,000
2	Bucks County	Recycling Education	\$21,600
3	Caln Township Chester County	Yard Waste Composting	\$156,994
4	Kennett Square Borough Chester County	Public Place Recycling	\$12,348
5	Phoenixville Borough Chester County	Curbside Recycling and Yard Waste Composting	\$486,725
6	SE Chester Co. Refuse Authority Chester County	Drop-off Recycling and Yard Waste Composting	\$111,567
7	Tredyffrin Township Chester County	Yard Waste Composting	\$99,900
8	West Brandywine Township Chester County	Curbside and Public Place Recycling	\$22,370
9	West Chester Borough Chester County	Curbside Recycling and Yard Waste Composting	\$318,105
10	Delaware County SW Authority Delaware County	Drop-off Recycling	\$242,999
11	Nether Providence Township Delaware County	Curbside Recycling and Leaf Waste Composting	\$232,525
12	Norwood Borough Delaware County	Wood Waste Recycling	\$35,195
13	Swarthmore Borough Delaware County	Curbside Recycling and Leaf Composting	\$58,001
14	Abington Township Montgomery County	Curbside Recycling	\$499,500

	<i>Applicant</i>	<i>Project</i>	<i>Grant Award</i>
15	Cheltenham Township Montgomery County	Yard Waste Collection and Composting	\$91,144
16	Hatfield Township Montgomery County	Drop-off and Multi-Family Recycling	\$12,942
17	Plymouth Township Montgomery County	Yard Waste Composting	\$305,000
18	Pottstown Borough Montgomery County	Curbside Recycling and Home Composting	\$370,490
19	Rockledge Borough Montgomery County	Public Place Recycling	\$10,624
20	Upper Dublin Township Montgomery County	Yard Waste Collection and Composting	\$364,034
21	City of Philadelphia Philadelphia County	Curbside Recycling	\$500,000
<b>Northeast Region</b>			
22	City of Carbondale Lackawanna County	Curbside and Commercial Recycling	\$7,150
23	Dunmore Borough Lackawanna County	Curbside and Leaf Waste Collection	\$129,489
24	Olyphant Borough Lackawanna County	Curbside Recycling	\$162,173
25	City of Scranton Lackawanna County	Curbside and Drop-off Recycling	\$266,892
26	City of Allentown Lehigh County	Curbside and Drop-off Recycling	\$90,000
27	Lehigh County	Yard Waste Composting	\$265,065
28	Dallas Area Municipal Authority Luzerne County	Curbside Recycling and Yard Waste Composting	\$191,304
29	Edwardsville Borough Luzerne County	Yard Waste Collection	\$35,050
30	Exeter Borough Luzerne County	Curbside Recycling and Yard Waste Composting	\$265,121
31	Kingston Township Luzerne County	Yard Waste Collection and Composting	\$78,169
32	Wright Township Luzerne County	Yard Waste Composting	\$500,000
33	Coolbaugh Township Monroe County	Yard Waste Collection and Composting	\$447,093
34	East Stroudsburg Borough Monroe County	Curbside Recycling and Public Place Recycling	\$60,598
35	Monroe Co. MWM Authority Monroe County	Drop-off and Public Place Recycling	\$154,973
36	Polk Township	Recycling Center	\$41,915

	<i>Applicant</i>	<i>Project</i>	<i>Grant Award</i>
	Monroe County		
37	Stroud Township Monroe County	Yard Waste Composting	\$262,188
38	Allen Township Northampton County	Yard Waste Collection and Composting	\$309,438
39	Bangor Borough Northampton County	Yard Waste Collection and Composting	\$245,742
40	City of Bethlehem Northampton County	Drop-off Recycling and Yard Waste Composting	\$37,208
41	City of Easton Northampton County	Curbside Recycling and Home Composting	\$243,184
42	Palmer Township Northampton County	Curbside and Yard Waste Collection	\$ 43,872
43	Schuylkill County	Drop-off Recycling	\$313,702
44	Wayne County	Drop-off Recycling	\$53,682
<b>Southcentral Region</b>			
45	Bernville Borough Berks County	Yard Waste Collection and Composting	\$123,145
46	Exeter Township Berks County	Yard Waste Collection and Composting	\$127,027
47	South Heidelberg Township Berks County	Yard Waste Collection	\$36,450
48	Cumberland County	Drop-off Recycling and Yard Waste Composting	\$479,693
49	Mechanicsburg Borough Cumberland County	Public Place Recycling	\$12,950
50	Mechanicsburg Borough Cumberland County	Yard Waste Composting	\$19,080
51	Lower Paxton Township Dauphin County	Yard Waste Collection	\$156,039
52	Columbia Borough Lancaster County	Yard Waste Composting	\$275,400
53	Lancaster County SWM Authority Lancaster County	Public Place Recycling and Home Composting	\$43,540
54	Mount Joy Borough Lancaster County	Yard Waste Composting	\$289,178
55	Salisbury Township Lancaster County	Yard Waste Composting	\$87,860
56	Terre Hill Borough Lancaster County	Yard Waste Drop-off	\$86,087
57	Warwick Township Lancaster County	Drop-off Recycling	\$321,408
58	City of Lebanon Lebanon County	Public Place Recycling and Yard Waste Collection	\$37,755

## NOTICES

2861

	<i>Applicant</i>	<i>Project</i>	<i>Grant Award</i>
59	Lebanon County	Curbside and Drop-off Recycling	\$55,120
60	North Cornwall Township Lebanon County	Recycling Education	\$5,155
61	North Lebanon Township Lebanon County	Yard Waste Collection and Composting	\$119,073
62	North Londonderry Township Lebanon County	Yard Waste Composting	\$121,797
63	Palmyra Borough Lebanon County	Leaf Collection	\$86,004
64	West Lebanon Township Lebanon County	Yard Waste Collection	\$35,550
65	Lewistown Borough Mifflin County	Recycling Center Improvements	\$157,315
66	Mifflin Co. SW Authority Mifflin County	Drop-off Recycling and Recycling Center	\$483,378
67	Perry County	Drop-off and Public Place Recycling	\$10,081
68	Dillsburg Borough York County	Yard Waste Collection	\$20,861
69	Penn Township York County	Curbside and Wood Waste Recycling	\$58,175
70	Springettsbury Township York County	Curbside and Yard Waste Collection	\$27,981
71	City of York York County	Yard Waste Collection and Composting	\$127,850
<b>Northcentral Region</b>			
72	Northern Tier SW Authority Bradford County	Curbside Recycling and Recycling Center	\$375,547
73	Cameron County	Drop-off Recycling and Yard Waste Collection	\$81,900
74	Centre County SW Authority Centre County	Curbside and Drop-of Recycling	\$416,682
75	Millheim Borough Centre County	Drop-off Recycling	\$4,171
76	Patton Township Centre County	Yard Waste Collection	\$104,634
77	Philipsburg Borough Centre County	Yard Waste Composting	\$89,370
78	State College Borough Centre County	Yard Waste Composting	\$470,925
79	Clearfield County SW Authority	Drop-off Recycling	\$94,087
80	Sandy Township Clearfield County	Drop-off Recycling and Yard Waste Composting	\$53,550
81	Clinton County SW Authority	Drop-off Recycling and Recycling Center	\$205,767

	<i>Applicant</i>	<i>Project</i>	<i>Grant Award</i>
82	City of Lock Haven Clinton County	Yard Waste Composting	\$172,725
83	Town of Bloomsburg Columbia County	Curbside Recycling and Recycling Center	\$372,090
84	Loyalsock Township Lycoming County	Yard Waste Collection	\$87,442
85	Lycoming County	Drop-off Recycling and Processing Equipment	\$489,949
86	Montoursville Borough Lycoming County	Yard Waste Collection	\$19,714
87	Muncy Borough Lycoming County	Wood Waste Recycling	\$38,700
88	Coal Township Northumberland County	Yard Waste Collection and Recycling Center	\$310,035
89	Mount Carmel Borough Northumberland County	Drop-off Recycling	\$306,787
90	Northumberland Borough Northumberland County	Yard Waste Collection and Composting	\$131,287
91	Sunbury Municipal Authority Northumberland County	Drop-off Recycling and Yard Waste Composting	\$414,000
92	Zerbe Township Northumberland County	Drop-off Recycling	\$44,684
93	Potter County SW Authority Potter County	Drop-off Recycling	\$24,786
94	Snyder Co. SWM Authority Snyder County	Drop-off Recycling	\$21,308
95	Union County	Drop-off Recycling and Food Waste Composting	\$369,103
<b>Southwest Region</b>			
96	Marshall Township Allegheny County	Curbside Recycling and Yard Waste Collection	\$350,034
97	Oakmont Borough Allegheny County	Yard Waste Collection and Commercial Recycling	\$131,720
98	O'Hara Township Allegheny County	Curbside and Yard Waste Collection	\$54,867
99	City of Pittsburgh Allegheny County	Recycling at Curbside and Multi-Family Dwellings	\$234,522
100	Beaver County	Drop-off Recycling and Yard Waste Composting	\$156,264
101	Cambria County SW Authority	Drop-off Recycling	\$285,805
102	City of Johnstown Cambria County	Yard Waste Collection	\$12,545
103	Fayette County	Curbside Recycling and Recycling Center	\$311,719
104	Indiana County SW Authority Indiana County	Wood Waste Recycling and Recycling Center	\$291,351

	<i>Applicant</i>	<i>Project</i>	<i>Grant Award</i>
105	City of Monongahela Washington County	Yard Waste Collection and Composting	\$14,560
106	City of New Kensington Westmoreland County	Wood Waste Recycling	\$24,973
<b>Northwest Region</b>			
107	Butler County	Curbside Recycling and Paper Bedding	\$266,720
108	Cranberry Township Butler County	Curbside Recycling and Yard Waste Collection	\$157,000
109	Crawford County SW Authority Crawford County	Drop-off Recycling and Recycling Center	\$199,481
110	City of Saint Marys Elk County	Yard Waste Composting and Public Place Recycling	\$63,364
111	City of Erie Erie County	Yard Waste Collection and Composting	\$412,000
112	Millcreek Township Erie County	Yard Waste Composting	\$ 250,720
113	Wesleyville Borough Erie County	Curbside Recycling	\$113,589
114	Jefferson County SW Authority Jefferson County	Curbside and Drop-off Recycling	\$87,017
115	Ellwood City Borough Lawrence County	Yard Waste Collection	\$187,483
116	Lawrence County	Curbside Recycling	\$125,000
TOTAL (116)			\$20,000,000

#### **Environmental Assessment**

*Northwest Regional Office, Water Supply Management, 230 Chestnut Street, Meadville, PA 16335.*

*Location: Conneautville Borough, 902 Main Street, P. O. Box 288, Conneautville, PA 16406*

*Description:* The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. Conneautville Borough proposes to replace water pipelines along SR 18, SR 198 and West Street. The project also includes replacement of the existing water storage tank. Total project cost is estimated to be approximately \$1 million. The Department of Environmental Protection's (Department) review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

[Pa.B. Doc. No. 06-1023. Filed for public inspection June 9, 2006, 9:00 a.m.]

#### **Availability of Technical Guidance**

Technical guidance documents are available on the Department of Environmental Protection's (Department) website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "Technical Guidance"). 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 2006.

#### *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 Guidance—Substantive Revision*

DEP ID: 294-2309-001. Title: Radon Certification Policy. Description: This document contains guidelines used by the Bureau of Radiation Protection to administer a radon certification program for persons conducting radon gas and radon progeny testing and laboratory analysis and mitigation of radon contamination in buildings. The policy is established under the authority of the Radon Certification Act (act) (63 P. S. §§ 2001—2014) and the Radiation Protection Act (35 P. S. §§ 7110.101—7110.703). It is also an implementation of the radon certification regulations at 25 Pa. Code Chapter 240 (relating to radon certification), which were promulgated under the act. Substantive revisions were made to the guidance, including the incorporation of provisions that require employees of certified mitigation firms to receive written approval and an identification card from the Department prior to commencing radon mitigation activities in this Commonwealth. Written Comments: The Department is seeking public comments on the substantive revisions to technical guidance #294-2309-001. Interested persons may submit written comments by July 10, 2006. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Michael Pyles, Department of Environmental Protection, Bureau of Radiation Protection, 400 Market Street, P. O. Box 8469, Harrisburg, PA 17105-8469, mpyles@state.pa.us. Contact: Questions regarding the draft technical guidance document should be directed to Michael Pyles at (717) 783-3594 or mpyles@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1024. Filed for public inspection June 9, 2006, 9:00 a.m.]

#### **Citizens Advisory Council to the Department of Environmental Protection; Meeting Change**

The Citizens Advisory Council (Council) to the Department of Environmental Protection will hold meetings on Tuesday, June 27, 2006, and Wednesday, June 28, 2006. The meetings will be held at 7 p.m. and 9:30 a.m. in the Spruce Room, Best Western University Inn, 1545 Wayne Avenue, Indiana, PA respectively. This is a rescheduling of the June 20, 2006, meeting.

Questions concerning this meeting should be directed to Stephanie Mioff at (717) 787-4527 or Stmioff@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should

contact Stephanie Mioff directly at (717) 787-4527 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Council may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1025. Filed for public inspection June 9, 2006, 9:00 a.m.]

#### **Draft Pennsylvania Stormwater Best Management Practices Manual and Draft Pennsylvania Model Stormwater Management Ordinance; Comment Period Extension**

The comment periods for draft technical guidance No. 363-0300-002: Pennsylvania Stormwater Best Management Practices Manual (Draft Manual) and for draft technical guidance No. 363-0300-003: Pennsylvania Model Stormwater Management Ordinance (Draft Ordinance) are extended. The Department of Environmental Protection (Department) will now accept public comments on both draft technical guidance documents until July 14, 2006. Notices of the Draft Manual and Draft Ordinance, including requests for public comment, were published at 36 Pa.B. 1797 (April 15, 2006) and 36 Pa.B. 2341 (May 13, 2006), respectively.

Persons wishing to comment on the Draft Manual or Draft Ordinance are invited to submit a written statement to the Chief, Stormwater Planning and Management, Department of Environmental Protection, Bureau of Watershed Management, Division of Waterways, Wetlands and Stormwater Management, Rachel Carson State Office Building, 10th Floor, P. O. Box 8775, Harrisburg, PA 17105-8775. Comments for the Draft Manual may be e-mailed to epstormwatermanual@state.pa.us. Comments for the Draft Ordinance may be e-mailed to epstormwaterordinan@state.pa.us. Comments submitted by facsimile will not be accepted. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it is based. Following the comment period, the Department will make a final determination regarding the Draft Manual and Draft Ordinance. Notice of these determinations will be published in the *Pennsylvania Bulletin*.

Hardcopies of the Draft Manual and the Draft Ordinance are available by contacting the Bureau of Watershed Management, Division of Waterways, Wetlands and Stormwater Management at (717) 787-6827. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). Electronic copies of the Draft Manual and Draft Ordinance are available for download on the Department's website at <http://www.depweb.state.pa.us> (DEP Keywords: "Stormwater Management"; select "Draft PA Stormwater Best Management Practices Manual - (363-0300-002)" or "Draft PA Model Stormwater Ordinance").

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1026. Filed for public inspection June 9, 2006, 9:00 a.m.]

### Extension of Pennsylvania General NPDES Permit for Concentrated Animal Feeding Operations (PAG-12)

Under The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P.S. §§ 510-5, 510-17 and 510-20), the Department of Environmental Protection (Department) by this notice issues an up to 1-year time extension, or until the revised general permit becomes effective, of the terms of its current General NPDES Permit for Concentrated Animal Feeding Operations (PAG-12). The current general permit is scheduled to expire June 16, 2006. The terms of the current general permit are extended until a revised PAG-12 permit becomes effective or through June 16, 2007, whichever occurs first.

The revised PAG-12 general permit, which updates this amended permit, is proposed to become effective on October 1, 2006. Notice of the proposed amendments to PAG-12, with provision for a 30-day public comment period, was published at 36 Pa.B. 233 (January 14, 2006). Notice of the revised general permit, including responses to the public comments received, will be published in the *Pennsylvania Bulletin* upon final approval. The Department will continue to grant coverage under the existing general permit and enforce permit compliance in accordance with existing requirements until the revised general permit is finalized and reissued.

The Department will redate the current general permit and post associated documents on the Department's website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (Keywords Web link "CAFOs"). The extension general permit documents package is also available by contacting Tom Juengst, Bureau of Watershed Management, (717) 783-7577, [tjuengst@state.pa.us](mailto:tjuengst@state.pa.us), or by contacting the appropriate Regional Office listed.

Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

KATHLEEN A. MCGINTY,  
*Secretary*

#### Department of Environmental Protection Regional Offices

##### Southeast Region

Bucks, Chester, Delaware, Montgomery and Philadelphia Counties

Permit Coordinator  
2 East Main Street  
Norristown, PA 19401  
(484) 250-5900

##### Northeast Region

Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne and Wyoming Counties

Permit Coordinator  
2 Public Square  
Wilkes-Barre, PA 18711-0790  
(570) 826-2511

##### Southcentral Region

Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry and York Counties

Permit Coordinator  
909 Elmerton Avenue  
Harrisburg, PA 17110  
(717) 705-4700

##### Northcentral Region

Bradford, Cameron, Centre, Clearfield, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga and Union Counties

Permit Coordinator  
208 W. 3rd Street  
Williamsport, PA 17701  
(570) 327-3636

##### Southwest Region

Allegheny, Armstrong, Beaver, Cambria, Fayette, Greene, Indiana, Somerset, Washington and Westmoreland Counties

Permit Coordinator  
400 Waterfront Drive  
Pittsburgh, PA 15222-4745  
(412) 442-4000

##### Northwest Region

Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango and Warren Counties

Permit Coordinator  
230 Chestnut Street  
Meadville, PA 16335-3481  
(814) 332-6945

[Pa.B. Doc. No. 06-1027. Filed for public inspection June 9, 2006, 9:00 a.m.]

### Mining and Reclamation Advisory Board; Meeting Change

The July 5-6, 2006, meeting of the Mining and Reclamation Advisory Board has been rescheduled. The meeting will now take place on July 12, 2006, at 1:30 p.m. in the Department of Environmental Protection California District Mining Office, 25 Technology Drive, California Technology Park, Coal Center, PA.

Questions concerning this meeting should be directed to James Charowsky at (717) 787-7007 or [jcharowsky@state.pa.us](mailto:jcharowsky@state.pa.us). The agenda and meeting materials for the July 12, 2006, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: Public Participation, Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact either James Charowsky at the telephone number or e-mail address previously listed or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1028. Filed for public inspection June 9, 2006, 9:00 a.m.]

## Recycling Markets Infrastructure Development Grant; Application Announcement

Applications for the 2006 Recycling Markets Infrastructure Development Grant (grant) are now available from the Department of Environmental Protection (Department). This grant seeks to provide reimbursement for equipment costs associated with increasing the use of recycled content in products by for-profit business entities and nonprofit organizations located and operating in this Commonwealth or that will be operating in this Commonwealth as a result of a grant award under this program. One million dollars is available for this initiative. The Department will award grants of up to \$500,000 to any one project. Additional consideration will be given to applications that are developed in consultation with the Pennsylvania Recycling Markets Center, (717) 948-6660, www.parmc.org.

The success of recycling programs is directly related to demand for recyclable goods. Strong, profitable, recycling-based businesses are good for the environment and the economy in this Commonwealth. The grant aims to build strong markets for recycled materials in this Commonwealth by assisting businesses and nonprofit organizations with increasing their use of recyclable materials in the production of finished products.

The Department will accept 2006 grant program applications until 4 p.m. on August 31, 2006. Applications can be obtained by contacting Jeff Bednar, Bureau of Waste Management at (717) 787-7382, jbednar@state.pa.us or by visiting the Department's website at www.depweb.state.pa.us (Keyword: Market Development).

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-1029. Filed for public inspection June 9, 2006, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Medical Assistance Program Fee Schedule Revision

The Department of Public Welfare (Department) will revise fees on the Medical Assistance (MA) Program Fee Schedule for select procedure codes for oxygen and oxygen-related equipment effective June 12, 2006.

#### *Fee Schedule Revisions*

The Pennsylvania Medicaid State Plan (State Plan) specifies that maximum fees for services covered under the MA Program are to be determined on the basis of the following: fees may not exceed the Medicare upper limit when applicable; fees must be consistent with efficiency, economy and quality of care; and fees must be sufficient to assure the availability of services to recipients.

In section 4552(a) of the Balanced Budget Act of 1997 ((42 U.S.C.A. § 1395m(a)(9)(B)(v) and (vi)), regarding special payment rules for particular items and services, Congress reduced payment levels for certain Medicare items, including oxygen and oxygen-related equipment. As a result, the Department revised the MA Program Fee Schedule rates for these services in 2003.

Medicare reviews and revises its payment rates at least annually. As a result of rate revisions since 2003, the Department has determined that MA payment rates for several oxygen and oxygen-related equipment procedure codes are above the Medicare-approved amount for the same procedure codes. The Department is adjusting the MA Program Fee Schedule payment rates for oxygen and oxygen-related procedure codes to equal the Medicare-approved amount. Revision of these fees is necessary to comply with the State Plan and to avoid a Federal disallowance.

The Department will revise the payment rates for the following procedure codes, which must be billed with modifier RR, effective June 12, 2006:

#### Oxygen Procedure Codes with Fees Exceeding 100% Medicare

<i>Code</i>	<i>Description</i>	<i>Fee Revision</i>
E0424	Stationary compressed gaseous oxygen system, rental; includes container, contents, regulator, flowmeter, humidifier, nebulizer, cannula or mask, and tubing	\$200.41
E0431	Portable gaseous oxygen system, rental; includes portable container, regulator, flowmeter, humidifier, cannula or mask, and tubing	\$32.07
E0434	Portable liquid oxygen system, rental; includes portable container, supply reservoir, humidifier, flowmeter, refill adaptor, contents gauge, cannula or mask, and tubing	\$32.07
E0439	Stationary liquid oxygen system, rental; includes container, contents, regulator, flowmeter, humidifier, nebulizer, cannula or mask, and tubing	\$200.41
E1390	Oxygen concentrator, single delivery port, capable of delivering 85% or greater oxygen concentration at the prescribed flow rate	\$200.41
E1405	Oxygen and water vapor enriching system with heated delivery	\$235.48
E1406	Oxygen and water vapor enriching system without heated delivery	\$216.51

#### *Fiscal Impact*

It is anticipated that these revisions will result in savings of \$0.743 million (\$0.344 million in State funds) in the Medical Assistance—Outpatient Program in Fiscal Year (FY) 2006-2007 and annualized savings of \$0.892 million (\$0.414 million in State funds) in FY 2007-2008.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Attention: Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received will be reviewed and considered for any subsequent revision to the MA Program Fee Schedule.

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

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-478. No fiscal impact; (8) recommends adoption. Savings as a result of this action are estimated at \$344,000 for Fiscal Year 2006-2007 and \$414,000 for Fiscal Year 2007-2008.

[Pa.B. Doc. No. 06-1030. Filed for public inspection June 9, 2006, 9:00 a.m.]

### Medical Assistance Program; Prior Authorization List

Section 443.6(b)(7) of the Public Welfare Code (62 P. S. § 443.6(b)(7)) authorizes the Department of Public Welfare (Department) to add items and services to the Medical Assistance (MA) Program's list of services that require prior authorization by publication of notice in the *Pennsylvania Bulletin*.

The purpose of this notice is to announce that the Department has added prescriptions, including refills, for Botox, Synagis and Xolair to the MA Program's list of services that require prior authorization.

#### *Fiscal Impact*

The savings associated with the addition of these drugs to the prior authorization list are estimated at \$0.303 million (\$0.136 million in State funds) in Fiscal Year (FY) 2005-2006. Annualized savings of \$1.903 million (\$0.865 million in State funds) are estimated in FY 2006-2007.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Attention: Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent changes to these prior authorization requirements.

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

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-477. No fiscal impact; (8) recommends adoption. Savings associated with adding these drugs to the prior authorization list are estimated at \$1.136 million for Fiscal Year 05-06 and \$.865 million for 06-07.

[Pa.B. Doc. No. 06-1031. Filed for public inspection June 9, 2006, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Caribbean Stud® Poker Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Caribbean Stud® Poker.

2. *Price:* The price of a Pennsylvania Caribbean Stud® Poker instant lottery game ticket is \$2.

3. *Play Symbols:* Each Pennsylvania Caribbean Stud® Poker instant lottery game ticket will contain a "DEALER'S HAND" area, a "YOUR HANDS" area and a "PRIZE" area. The "YOUR HANDS" area consists of a "1st HAND," "2nd HAND," "3rd HAND" and a "4th HAND." There are four Prize symbols in the "PRIZE" area, one corresponding and appearing to the right of each of "YOUR HANDS." Each of "YOUR HANDS" is played separately. There are 52 card play symbols, five of which will be located in the "DEALER'S HAND" area and five of which will be located in each of the four "YOUR HAND" areas. The black card play symbols are: 2 of Spades (TWS), 3 of Spades (THS), 4 of Spades (FRS), 5 of Spades (FVS), 6 of Spades (SXS), 7 of Spades (SNS), 8 of Spades (ETS), 9 of Spades (NIS), 10 of Spades (TNS), Jack of Spades (JKS), Queen of Spades (QNS), King of Spades (KGS), Ace of Spades (ACS), 2 of Clubs (TWC), 3 of Clubs (THC), 4 of Clubs (FRC), 5 of Clubs (FVC), 6 of Clubs (SXC), 7 of Clubs (SNC), 8 of Clubs (ETC), 9 of Clubs (NIC), 10 of Clubs (TNC), Jack of Clubs (JKC), Queen of Clubs (QNC), King of Clubs (KGC) and Ace of Clubs (ACC). The red card play symbols are: 2 of Diamonds (TWD), 3 of Diamonds (THD), 4 of Diamonds (FRD), 5 of Diamonds (FVD), 6 of Diamonds (SXD), 7 of Diamonds (SND), 8 of Diamonds (ETD), 9 of Diamonds (NID), 10 of Diamonds (TND), Jack of Diamonds (JKD), Queen of Diamonds (QND), King of Diamonds (KGD), Ace of Diamonds (ACD), 2 of Hearts (TWH), 3 of Hearts (THH), 4 of Hearts (FRH), 5 of Hearts (FVH), 6 of Hearts (SXH), 7 of Hearts (SNH), 8 of Hearts (ETH), 9 of Hearts (NIH), 10 of Hearts (TNH), Jack of Hearts (JKH), Queen of Hearts (QNH), King of Hearts (KGH) and Ace of Hearts (ACH).

4. *Prize Symbols:* The prize symbols and their captions located in the "PRIZE" areas are: \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$4<sup>00</sup> (FOR DOL), \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$100 (ONE HUN), \$10,000 (TEN THO), \$20,000 (TWY THO) and CRUISE (CRUISE).

5. *Prizes:* The prizes that can be won in this game are: \$1, \$2, \$4, \$5, \$10, \$20, \$40, \$100, \$10,000, \$20,000 and a 7-Day Caribbean Cruise. The player can win up to four times on a ticket but can only win one prize per "HAND."

6. *Approximate Number of Tickets Printed for the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania Caribbean Stud® Poker instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets on which any of "YOUR HANDS" beats the "DEALER'S HAND," and a prize symbol of \$20,000 (TWY THO) appears in the corresponding "PRIZE" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$20,000.

(b) Holders of tickets on which any of "YOUR HANDS" beats the "DEALER'S HAND," and a prize symbol of \$10,000 (TEN THO) appears in the corresponding "PRIZE" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$10,000.

(c) Holders of tickets on which any of "YOUR HANDS" beats the "DEALER'S HAND," and a prize symbol of CRUISE (CRUSE) appears in the corresponding "PRIZE" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of a 7-Day Caribbean Cruise.

(d) Holders of tickets on which any of "YOUR HANDS" beats the "DEALER'S HAND," and a prize symbol of \$100 (ONE HUN) appears in the corresponding "PRIZE" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets on which any of "YOUR HANDS" beats the "DEALER'S HAND," and a prize symbol of \$40 (FORTY) appears in the corresponding "PRIZE" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$40.

(f) Holders of tickets on which any of "YOUR HANDS" beats the "DEALER'S HAND," and a prize symbol of \$20 (TWENTY) appears in the corresponding "PRIZE" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$20.

(g) Holders of tickets on which any of "YOUR HANDS" beats the "DEALER'S HAND," and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the corresponding "PRIZE" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$10.

(h) Holders of tickets on which any of "YOUR HANDS" beats the "DEALER'S HAND," and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in the corresponding "PRIZE" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$5.

(i) Holders of tickets on which any of "YOUR HANDS" beats the "DEALER'S HAND," and a prize symbol of \$4<sup>00</sup> (FOR DOL) appears in the corresponding "PRIZE" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$4.

(j) Holders of tickets on which any of "YOUR HANDS" beats the "DEALER'S HAND," and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in the corresponding "PRIZE" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$2.

(k) Holders of tickets on which any of "YOUR HANDS" beats the "DEALER'S HAND," and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in the corresponding "PRIZE" area to the right of that "HAND," on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

*When Any of Your Hands Beat the Dealer's Hand Win With Prizes of:*

<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate Number of Winners Per 7,200,000 Tickets</i>
\$2	18.75	384,000
\$1 x 2	18.75	384,000
\$4	33.33	216,000
\$2 x 2	33.33	216,000
\$5	75	96,000
\$2 x 2 + \$1	75	96,000
\$10	100	72,000
\$5 x 2	100	72,000
\$20	150	48,000
\$5 x 4	300	24,000
\$10 x 2	300	24,000
\$40	2,400	3,000
\$10 x 4	1,600	4,500
\$20 x 2	1,600	4,500
\$100	4,000	1,800
\$40 x 2 + \$10 x 2	4,138	1,740
CRUISE TRIP (CRUSE)	72,000	100
\$10,000	1,440,000	5
\$20,000	1,440,000	5

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Cruise Prize Package Information and Restrictions:*

(a) The cruises are 7-Day Caribbean cruises for two people on the Carnival® Triumph, Carnival® Victory or Carnival® Valor departing from Miami; or the Carnival® Glory departing from Port Canaveral; or the Carnival® Miracle departing from Tampa and include the following:

(1) Two round trip coach class tickets booked on a

major airline from and returning to the winner's choice of either Pittsburgh International Airport or Philadelphia International Airport.

(2) Accommodations for two people occupying a stateroom.

(3) The trip includes all main dining room meals (excludes specialty restaurants).

(4) Gratuities are included for main dining room and stateroom services.

(5) Cruise prize package will include \$1,006.25 for on-board expenses and spending money, as well as payment to the Internal Revenue Service of required withholding in the amount of \$1,618.75.

(6) The winner of a 7-Day Cruise may opt for a cash prize of \$6,475, less required federal withholding, in lieu of the prize package.

(b) Cruise Restrictions:

(1) Either the claimant or accompanying guest must be at least 21 years of age.

(2) The prize does not include insurance, parking fees, excess baggage fees, alcoholic beverages, any items not specified, and personal expenses such as telephone calls, valet service, laundry, and the like, revision or cancellation fees which may be charged by the airline, cruise line or other suppliers.

(3) The trip must be redeemed within one year from the date the claim is validated.

(4) If the winner is not present at the designated departure location at the designated time of departure, the entire prize shall be forfeited.

(5) Winners are subject to Carnival's Terms and Conditions of Passage Contract Ticket and to Carnival's standard cancellation terms and related charges.

(6) Trips exclude Christmas, New Year's, and Thanksgiving travel.

(7) Reservations must be made no later than thirty (30) days prior to travel.

10. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Caribbean Stud® Poker instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Caribbean Stud® Poker, prize money from winning Pennsylvania Caribbean Stud® Poker instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Caribbean Stud® Poker instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

12. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

13. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Caribbean Stud® Poker or through normal communications methods.

GREGORY C. FAJT,  
Secretary

[Pa.B. Doc. No. 06-1032. Filed for public inspection June 9, 2006, 9:00 a.m.]

## Pennsylvania HumonGUS Bucks Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania HumonGUS Bucks.

2. *Price:* The price of a Pennsylvania HumonGUS Bucks instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania HumonGUS Bucks instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area and a "GUS NUMBERS" area. The play symbols and their captions located in the "WINNING NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR) and 24 (TWYFOR). The play symbols and their captions located in the "GUS NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR) and Paw Print symbol (PAW).

4. *Prize Symbols:* The prize symbols and their captions located in the "GUS NUMBERS" area are: \$2<sup>00</sup> (TWO DOL), \$5<sup>00</sup> (FIV DOL), \$6<sup>00</sup> (SIX DOL), \$10<sup>00</sup> (TEN DOL), \$15\$ (FIFTN), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), \$5,000 (FIV THO) and \$50,000 (FTY THO).

5. *Prizes:* The prizes that can be won in this game are: \$2, \$5, \$6, \$10, \$15, \$25, \$50, \$100, \$500, \$5,000 and \$50,000. A player can win up to ten times on a ticket.

6. *Second Chance Drawing:* The Pennsylvania Lottery will conduct a Second Chance Drawing with non-winning Pennsylvania HumonGUS Bucks instant lottery tickets as provided for in section 11.

7. *Approximate Number of Tickets Printed for the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania HumonGUS Bucks instant lottery game.

8. *Determination of Prize Winners:*

(a) Holders of tickets upon which any of the "GUS NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50,000 (FTY THO) appears under the matching "GUS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(b) Holders of tickets upon which any of the "GUS NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$5,000 (FIV THO) appears under the matching "GUS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5,000.

(c) Holders of tickets upon which any one of the "GUS NUMBERS" play symbols is a Paw Print symbol (PAW), and a prize symbol of \$500 (FIV HUN) appears under the Paw Print symbol (PAW) on a single ticket, shall be entitled to a prize of \$500.

(d) Holders of tickets upon which any of the "GUS NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears under the matching "GUS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(e) Holders of tickets upon which any one of the "GUS NUMBERS" play symbols is a Paw Print symbol (PAW), and a prize symbol of \$100 (ONE HUN) appears under the Paw Print symbol (PAW) on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets upon which any of the "GUS NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "GUS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(g) Holders of tickets upon which any one of the "GUS NUMBERS" play symbols is a Paw Print symbol (PAW), and a prize symbol of \$50\$ (FIFTY) appears under the Paw Print symbol (PAW) on a single ticket, shall be entitled to a prize of \$50.

(h) Holders of tickets upon which any of the "GUS NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50\$ (FIFTY) appears under the matching "GUS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(i) Holders of tickets upon which any one of the "GUS NUMBERS" play symbols is a Paw Print symbol (PAW), and a prize symbol of \$25\$ (TWY FIV) appears under the Paw Print symbol (PAW) on a single ticket, shall be entitled to a prize of \$25.

(j) Holders of tickets upon which any of the "GUS NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$25\$ (TWY FIV) appears under the matching "GUS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(k) Holders of tickets upon which any one of the "GUS NUMBERS" play symbols is a Paw Print symbol (PAW), and a prize symbol of \$15\$ (FIFTN) appears under the Paw Print symbol (PAW) on a single ticket, shall be entitled to a prize of \$15.

(l) Holders of tickets upon which any of the "GUS NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$15\$ (FIFTN) appears under the matching "GUS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(m) Holders of tickets upon which any one of the "GUS NUMBERS" play symbols is a Paw Print symbol (PAW), and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the Paw Print symbol (PAW) on a single ticket, shall be entitled to a prize of \$10.

(n) Holders of tickets upon which any of the "GUS NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the matching "GUS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(o) Holders of tickets upon which any one of the "GUS NUMBERS" play symbols is a Paw Print symbol (PAW), and a prize symbol of \$6<sup>00</sup> (SIX DOL) appears under the Paw Print symbol (PAW) on a single ticket, shall be entitled to a prize of \$6.

(p) Holders of tickets upon which any of the "GUS NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$6<sup>00</sup> (SIX DOL) appears under the matching "GUS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$6.

(q) Holders of tickets upon which any one of the "GUS NUMBERS" play symbols is a Paw Print symbol (PAW), and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the Paw Print symbol (PAW) on a single ticket, shall be entitled to a prize of \$5.

(r) Holders of tickets upon which any of the "GUS NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the matching "GUS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(s) Holders of tickets upon which any of the "GUS NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears under the matching "GUS NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

9. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

*When Any of the Gus Numbers Match Any of the Winning Numbers, Win With Prize(s) of:*

\$5  
 \$5 w/PAW PRINT  
 \$6  
 \$6 w/PAW PRINT  
 \$2 x 5  
 \$5 x 2  
 \$10  
 \$10 w/PAW PRINT  
 \$5 x 3  
 \$10 + \$5  
 \$15

*Win:*  
 \$5  
 \$5  
 \$6  
 \$6  
 \$10  
 \$10  
 \$10  
 \$10  
 \$15  
 \$15  
 \$15

*Approximate Odds of 1 In:*  
 24  
 22.22  
 30  
 30  
 120  
 120  
 120  
 120  
 120  
 120  
 120

*Approximate No. of Winners Per 7,200,000 Tickets*  
 300,000  
 324,000  
 240,000  
 240,000  
 60,000  
 60,000  
 60,000  
 60,000  
 60,000  
 60,000  
 60,000

*When Any of the Gus Numbers Match Any of the Winning Numbers, Win With Prize(s) of:*

	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 7,200,000 Tickets</i>
\$15 w/PAW PRINT	\$15	120	60,000
\$5 × 5	\$25	300	24,000
\$25	\$25	200	36,000
\$25 w/PAW PRINT	\$25	120	60,000
\$25 × 2	\$50	300	24,000
\$15 × 3 + \$5	\$50	600	12,000
\$5 × 10	\$50	300	24,000
\$10 × 5	\$50	300	24,000
\$50	\$50	300	24,000
\$50 w/PAW PRINT	\$50	600	12,000
\$10 × 10	\$100	1,200	6,000
\$50 × 2	\$100	1,200	6,000
\$100	\$100	1,200	6,000
\$100 w/PAW PRINT	\$100	1,200	6,000
\$50 × 10	\$500	24,000	300
\$100 × 5	\$500	24,000	300
\$500	\$500	24,000	300
\$500 w/PAW PRINT	\$500	24,000	300
\$500 × 10	\$5,000	360,000	20
\$5,000	\$5,000	360,000	20
\$50,000	\$50,000	360,000	20

PAW PRINT (PAW)—Wins prize shown under it automatically.

Prizes, including top prizes, are subject to availability at the time of purchase.

10. *Second Chance Drawing Requirements.*

(a) To be eligible for the Second Chance Drawing, players must mail exactly three (3) non-winning Pennsylvania HumonGUS Bucks instant lottery tickets in an envelope no larger than 4 1/8 by 9 1/2 inches addressed to Pennsylvania Lottery, Second Chance Drawing, P. O. Box 888, Middletown, PA 17057-0888. The player shall affix proper postage to the entry.

(b) Envelopes containing less than or more than three (3) non-winning Pennsylvania HumonGUS Bucks instant lottery tickets shall be disqualified.

(c) Non-winning Pennsylvania HumonGUS Bucks instant lottery tickets received in an envelope larger than 4 1/8 by 9 1/2 inches shall be disqualified. The only exception is for non-winning Pennsylvania HumonGUS Bucks instant lottery tickets received in a United States Post Office "damaged-in-mail-process" envelope.

(d) Winning Pennsylvania HumonGUS Bucks instant lottery tickets submitted to the HumonGUS Bucks Second Chance Drawing address will not be paid or honored. Second Chance Drawing entries containing winning Pennsylvania HumonGUS Bucks instant lottery tickets will be disqualified.

(e) The back of each non-winning Pennsylvania HumonGUS Bucks instant lottery ticket entered in the Second Chance Drawing must be completed by the same player in a legible manner, including the player's name, street address, city, state, zip code, telephone number and signature. Only one claimant per ticket allowed. Claimant must be 18 years of age or older. Incomplete tickets shall be disqualified.

(f) To be eligible for the Second Chance Drawing non-winning Pennsylvania HumonGUS Bucks instant lottery tickets must be received by the Pennsylvania Lottery no later than August 8, 2006.

11. *Second Chance Drawing Procedures.*

(a) The Second Chance Drawing will be held at Lottery Headquarters the week of August 14, 2006. The odds of an entry being selected in the Second Chance Drawing depend upon the number of entries received.

(b) To be eligible for the Second Chance Drawing, a player must have complied with the requirements of section 10.

(1) The Lottery will make a reasonable effort to ensure that each Second Chance entry is entered into the Second Chance Drawing. The Lottery assumes no responsibility for a lost or misplaced entry not entered into the Second Chance Drawing.

(2) If a Second Chance entry is rejected during or following the Second Chance Drawing, the sole remedy is to select another entry to replace the rejected entry in accordance with Lottery procedure.

(c) *Manner of conducting the Second Chance Drawings.*

(1) All entries received at Lottery Headquarters on or before August 8, 2006, will be placed in numbered containers, each containing approximately 500 envelopes.

(2) A computer-generated randomizer or mechanical device may be used to select 3 of the numbered containers from which the winners will be selected, one winner from each container. If used, the randomizer will not be programmed to eliminate the possibility of the same container's being selected more than once.

(3) One envelope will be randomly drawn from each of the selected numbered containers. As each entry envelope is selected, its contents will be qualified according to the requirements of section 10. If the entry does not meet the requirements of section 10, another entry will be selected from that container; and so on, until a qualified entry has been chosen. Once a qualified entry has been selected, further validation will take place by verifying the status of the tickets contained in the entry envelope drawn by



entering the ticket information into the computerized instant ticket database. The first qualified and validated entry from each of the designated containers will entitle its owner to the HumonGUS Bucks prize package.

(4) Determination of winners will be made by the Secretary, whose judgment will be final and binding.

(d) The payment of a prize awarded in the Second Chance drawing to a person who dies before receiving the prize shall be paid according to 61 Pa. Code §§ 811.16 (relating to prizes payable after death of a prize winner). There is no cash equivalent for the prize awarded in the Second Chance drawing.

12. *Second Chance Prize Description:*

(a) HumonGUS Bucks Prize Package. Each prize package will consist of the following: Attendance at a television commercial with Gus, the Lottery's instant games mascot, produced in either Philadelphia or Pittsburgh during the 2006 fiscal year; transportation within Pennsylvania for the winner and one guest to and from the shoot; two nights' stay in one room with two double beds in the hotel used by the commercial's production crew; welcome lunch on day one, breakfast and lunch the day of the shoot; \$500 cash; a photograph with Gus.

13. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania HumonGUS Bucks instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

14. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania HumonGUS Bucks, prize money from winning Pennsylvania HumonGUS Bucks instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania HumonGUS Bucks instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

15. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

16. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania HumonGUS Bucks or through normal communications methods.

GREGORY C. FAJT,  
Secretary

[Pa.B. Doc. No. 06-1033. Filed for public inspection June 9, 2006, 9:00 a.m.]

**Pennsylvania Player's Club/Roulette/Dice/Blackjack/Slots Instant Lottery Game**

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Player's Club/Roulette/Dice/Blackjack/Slots. The name appearing on the tickets will be one of the following on a consecutive basis: "ROULETTE," "DICE," "BLACKJACK" or "SLOTS." Each game has a different game play method and is played separately. For readability, this notice will use a generic title, Player's Club, to represent the four different game names.

2. *Price:* The price of a Pennsylvania Player's Club instant lottery game ticket is \$1.

3. *Play Symbols:*

(a) The play area for Pennsylvania Player's Club "ROULETTE" will contain four "YOUR NUMBER" areas and a "ROULETTE NUMBER" area. The play symbols and their captions located in the "YOUR NUMBER" areas and the "ROULETTE NUMBER" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN) and 8 (EIGHT).

(b) The play area for "DICE" will contain "ROLL 1," "ROLL 2," "ROLL 3" and "ROLL 4." Each "ROLL" is played separately. The play symbols and their captions located in the play area for each "ROLL" are: 1 symbol (ONE), 2 symbol (TWO), 3 symbol (THREE), 4 symbol (FOUR), 5 symbol (FIVE) and 6 symbol (SIX).

(c) The play area for "BLACKJACK" will contain a "DEALER'S TOTAL" area and "HAND 1," "HAND 2," "HAND 3" and "HAND 4" areas. Each "HAND" is played separately. The play symbols and their captions located in the "HAND" areas are: 2 (TWO), 3 (THR), 4 (FOR), 5 (FIV), 6 (SIX), 7 (SVN), 8 (EGT), 9 (NIN), 10 (TEN), Jack (JCK), Queen (QUN), King (KNG) and Ace (ACE) playing card symbols. The play symbols and their captions located in the "DEALER'S TOTAL" area are: 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN) and 20 (TWENT). Jack, Queen, King = 10, Ace = 11.

(d) The play area for "SLOTS" will contain "PULL 1," "PULL 2," "PULL 3" and "PULL 4." Each "PULL" is played separately. The play symbols and their captions located in the play area for "SLOTS" are: Cherry symbol (CHY), Bell symbol (BELL), Melon symbol (MEL), Banana symbol (BAN), Star symbol (STA), Lemon symbol (LEM), Horse Shoe symbol (SHO), Bar symbol (BAR), 7 symbol (SVN), Crown symbol (CRN), and Diamond symbol (DMND).

4. *Prize Symbols:* The prize symbols and their captions located in the "PRIZE" areas for "DICE" and "SLOTS," in the "YOUR NUMBER" prize areas for "ROULETTE," and in the "HAND" prize areas for "BLACKJACK" are: FREE (TICKET), \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$4<sup>00</sup> (FOR DOL), \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$80\$ (EIGHTY), \$250 (TWOHUNFTY) and \$1,000 (ONE THO).

5. *Prizes:* The prizes that can be won in this game are: Free Ticket, \$1, \$2, \$4, \$5, \$10, \$20, \$40, \$80, \$250 and \$1,000. A player can win up to 4 times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 12,000,000 tickets will be printed for the Pennsylvania Player's Club instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for "ROULETTE" are:

(1) Holders of tickets upon which any one of the "YOUR NUMBER" play symbols match the "ROULETTE NUMBER" play symbol and a prize symbol of \$1,000

(ONE THO) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(2) Holders of tickets upon which any one of the "YOUR NUMBER" play symbols match the "ROULETTE NUMBER" play symbol and a prize symbol of \$250 (TWOHUNFTY) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$250.

(3) Holders of tickets upon which any one of the "YOUR NUMBER" play symbols match the "ROULETTE NUMBER" play symbol and a prize symbol of \$80\$ (EIGHTY) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$80.

(4) Holders of tickets upon which any one of the "YOUR NUMBER" play symbols match the "ROULETTE NUMBER" play symbol and a prize symbol of \$40\$ (FORTY) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(5) Holders of tickets upon which any one of the "YOUR NUMBER" play symbols match the "ROULETTE NUMBER" play symbol and a prize symbol of \$20\$ (TWENTY) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets upon which any one of the "YOUR NUMBER" play symbols match the "ROULETTE NUMBER" play symbol and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(7) Holders of tickets upon which any one of the "YOUR NUMBER" play symbols match the "ROULETTE NUMBER" play symbol and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(8) Holders of tickets upon which any one of the "YOUR NUMBER" play symbols match the "ROULETTE NUMBER" play symbol and a prize symbol of \$4<sup>00</sup> (FOR DOL) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(9) Holders of tickets upon which any one of the "YOUR NUMBER" play symbols match the "ROULETTE NUMBER" play symbol and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(10) Holders of tickets upon which any one of the "YOUR NUMBER" play symbols match the "ROULETTE NUMBER" play symbol and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$1.

(11) Holders of tickets upon which any one of the "YOUR NUMBER" play symbols match the "ROULETTE NUMBER" play symbol and a prize symbol of FREE (TICKET) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of one Pennsylvania Player's Club instant game ticket or one Pennsylvania Lottery instant game ticket with a \$1 sale price which is currently on sale.

(b) Determination of prize winners for "DICE" are:

(1) Holders of tickets where the sum of the play symbols totals 7 or 11 in the same "ROLL," and a prize symbol of \$1,000 (ONE THO) appears in the "PRIZE" area to the right side of that "ROLL," on a single ticket, shall be entitled to a prize of \$1,000.

(2) Holders of tickets where the sum of the play symbols totals 7 or 11 in the same "ROLL," and a prize symbol of \$250 (TWOHUNFTY) appears in the "PRIZE" area to the right side of that "ROLL," on a single ticket, shall be entitled to a prize of \$250.

(3) Holders of tickets where the sum of the play symbols totals 7 or 11 in the same "ROLL," and a prize symbol of \$80\$ (EIGHTY) appears in the "PRIZE" area to the right side of that "ROLL," on a single ticket, shall be entitled to a prize of \$80.

(4) Holders of tickets where the sum of the play symbols totals 7 or 11 in the same "ROLL," and a prize symbol of \$40\$ (FORTY) appears in the "PRIZE" area to the right side of that "ROLL," on a single ticket, shall be entitled to a prize of \$40.

(5) Holders of tickets where the sum of the play symbols totals 7 or 11 in the same "ROLL," and a prize symbol of \$20\$ (TWENTY) appears in the "PRIZE" area to the right side of that "ROLL," on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets where the sum of the play symbols totals 7 or 11 in the same "ROLL," and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the "PRIZE" area to the right side of that "ROLL," on a single ticket, shall be entitled to a prize of \$10.

(7) Holders of tickets where the sum of the play symbols totals 7 or 11 in the same "ROLL," and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in the "PRIZE" area to the right side of that "ROLL," on a single ticket, shall be entitled to a prize of \$5.

(8) Holders of tickets where the sum of the play symbols totals 7 or 11 in the same "ROLL," and a prize symbol of \$4<sup>00</sup> (FOR DOL) appears in the "PRIZE" area to the right side of that "ROLL," on a single ticket, shall be entitled to a prize of \$4.

(9) Holders of tickets where the sum of the play symbols totals 7 or 11 in the same "ROLL," and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in the "PRIZE" area to the right side of that "ROLL," on a single ticket, shall be entitled to a prize of \$2.

(10) Holders of tickets where the sum of the play symbols totals 7 or 11 in the same "ROLL," and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in the "PRIZE" area to the right side of that "ROLL," on a single ticket, shall be entitled to a prize of \$1.

(11) Holders of tickets where the sum of the play symbols totals 7 or 11 in the same "ROLL," and a prize symbol of FREE (TICKET) appears in the "PRIZE" area to the right side of that "ROLL," on a single ticket, shall be entitled to a prize of one Pennsylvania Player's Club instant game ticket or one Pennsylvania Lottery instant game ticket with a \$1 sale price which is currently on sale.

(c) Determination of prize winners for "BLACKJACK" are:

(1) Holders of tickets where the sum of the playing card symbols in any "HAND" is greater than the "DEALER'S TOTAL," and a prize symbol of \$1,000 (ONE THO) appears in the prize area under that "HAND," on a single ticket, shall be entitled to a prize of \$1,000.

(2) Holders of tickets where the sum of the playing card symbols in any "HAND" is greater than the "DEALER'S TOTAL," and a prize symbol of \$250 (TWOHUNFTY) appears in the prize area under that "HAND," on a single ticket, shall be entitled to a prize of \$250.

(3) Holders of tickets where the sum of the playing card symbols in any "HAND" is greater than the "DEALER'S TOTAL," and a prize symbol of \$80\$ (EIGHTY) appears in the prize area under that "HAND," on a single ticket, shall be entitled to a prize of \$80.

(4) Holders of tickets where the sum of the playing card symbols in any "HAND" is greater than the "DEALER'S TOTAL," and a prize symbol of \$40\$ (FORTY) appears in the prize area under that "HAND," on a single ticket, shall be entitled to a prize of \$40.

(5) Holders of tickets where the sum of the playing card symbols in any "HAND" is greater than the "DEALER'S TOTAL," and a prize symbol of \$20\$ (TWENTY) appears in the prize area under that "HAND," on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets where the sum of the playing card symbols in any "HAND" is greater than the "DEALER'S TOTAL," and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the prize area under that "HAND," on a single ticket, shall be entitled to a prize of \$10.

(7) Holders of tickets where the sum of the playing card symbols in any "HAND" is greater than the "DEALER'S TOTAL," and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in the prize area under that "HAND," on a single ticket, shall be entitled to a prize of \$5.

(8) Holders of tickets where the sum of the playing card symbols in any "HAND" is greater than the "DEALER'S TOTAL," and a prize symbol of \$4<sup>00</sup> (FOR DOL) appears in the prize area under that "HAND," on a single ticket, shall be entitled to a prize of \$4.

(9) Holders of tickets where the sum of the playing card symbols in any "HAND" is greater than the "DEALER'S TOTAL," and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in the prize area under that "HAND," on a single ticket, shall be entitled to a prize of \$2.

(10) Holders of tickets where the sum of the playing card symbols in any "HAND" is greater than the "DEALER'S TOTAL," and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in the prize area under that "HAND," on a single ticket, shall be entitled to a prize of \$1.

(11) Holders of tickets where the sum of the playing card symbols in any "HAND" is greater than the "DEALER'S TOTAL," and a prize symbol of FREE (TICKET) appears in the prize area under that "HAND," on a single ticket, shall be entitled to a prize of one Pennsylvania Player's Club instant game ticket or one Pennsylvania Lottery instant game ticket with a \$1 sale price which is currently on sale.

(d) Determination of prize winners for "SLOTS" are:

(1) Holders of tickets with three matching play symbols in the same "PULL," and a prize symbol of \$1,000 (ONE THO) appears in the "PRIZE" area to the right side of that "PULL," on a single ticket, shall be entitled to a prize of \$1,000.

(2) Holders of tickets with three matching play symbols in the same "PULL," and a prize symbol of \$250 (TWOHUNFTY) appears in the "PRIZE" area to the right side of that "PULL," on a single ticket, shall be entitled to a prize of \$250.

(3) Holders of tickets with three matching play symbols in the same "PULL," and a prize symbol of \$80\$ (EIGHTY) appears in the "PRIZE" area to the right side of that "PULL," on a single ticket, shall be entitled to a prize of \$80.

(4) Holders of tickets with three matching play symbols in the same "PULL," and a prize symbol of \$40\$ (FORTY) appears in the "PRIZE" area to the right side of that "PULL," on a single ticket, shall be entitled to a prize of \$40.

(5) Holders of tickets with three matching play symbols in the same "PULL," and a prize symbol of \$20\$ (TWENTY) appears in the "PRIZE" area to the right side of that "PULL," on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets with three matching play symbols in the same "PULL," and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the "PRIZE" area to the right side of that "PULL," on a single ticket, shall be entitled to a prize of \$10.

(7) Holders of tickets with three matching play symbols in the same "PULL," and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in the "PRIZE" area to the right side of that "PULL," on a single ticket, shall be entitled to a prize of \$5.

(8) Holders of tickets with three matching play symbols in the same "PULL," and a prize symbol of \$4<sup>00</sup> (FOR DOL) appears in the "PRIZE" area to the right side of that "PULL," on a single ticket, shall be entitled to a prize of \$4.

(9) Holders of tickets with three matching play symbols in the same "PULL," and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in the "PRIZE" area to the right side of that "PULL," on a single ticket, shall be entitled to a prize of \$2.

(10) Holders of tickets with three matching play symbols in the same "PULL," and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in the "PRIZE" area to the right side of that "PULL," on a single ticket, shall be entitled to a prize of \$1.

(11) Holders of tickets with three matching play symbols in the same "PULL," and a prize symbol of FREE (TICKET) appears in the "PRIZE" area to the right side of that "PULL," on a single ticket, shall be entitled to a prize of one Pennsylvania Player's Club instant game ticket or one Pennsylvania Lottery instant game ticket with a \$1 sale price which is currently on sale.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Win With Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate Number of Winners Per 12,000,000 Tickets</i>
FREE	TICKET	20	600,000
\$1	\$1	20	600,000
\$1 × 2	\$2	33.33	360,000
\$2	\$2	33.33	360,000
\$1 × 4	\$4	120	100,000
\$2 × 2	\$4	120	100,000
\$4	\$4	100	120,000
\$5	\$5	75	160,000
\$2 × 3 + \$4	\$10	200	60,000
\$4 × 2 + \$2	\$10	600	20,000
\$5 × 2	\$10	750	16,000
\$10	\$10	500	24,000
\$5 × 4	\$20	1,000	12,000
\$10 × 2	\$20	1,000	12,000
\$20	\$20	750	16,000
\$10 × 4	\$40	3,582	3,350
\$20 × 2	\$40	3,636	3,300
\$40	\$40	3,582	3,350
\$20 × 4	\$80	80,000	150
\$40 × 2	\$80	120,000	100
\$80	\$80	120,000	100
\$250	\$250	240,000	50
\$250 × 4	\$1,000	480,000	25
\$1,000	\$1,000	480,000	25

ROULETTE—When any of YOUR NUMBERS match the ROULETTE NUMBER, win prize shown under the matching number.

DICE—When any of YOUR ROLLS total 7 or 11 in the same ROLL, win prize shown to the right of that roll.

BLACKJACK—When the total of any HAND is greater than the DEALER'S TOTAL, win prize shown for that HAND.

SLOTS—Match 3 like symbols in any PULL, win PRIZE shown for that PULL.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Player's Club instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Player's Club, prize money from winning Pennsylvania Player's Club instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Player's Club instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be

paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Player's Club or through normal communications methods.

GREGORY C. FAJT,  
*Secretary*

[Pa.B. Doc. No. 06-1034. Filed for public inspection June 9, 2006, 9:00 a.m.]

**Realty Transfer Tax; 2005 Common Level Ratio Real Estate Valuation Factors**

The following real estate valuation factors are based on sales data compiled by the State Tax Equalization Board in 2005. These factors are the mathematical reciprocals of the actual common level ratio. For Pennsylvania Realty Transfer Tax purposes, these factors are applicable for documents accepted from July 1, 2006, to June 30, 2007, except as indicated. The date of acceptance of a document is rebuttably presumed to be its date of execution, that is, the date specified in the body of the document as the date of the instrument (61 Pa. Code § 91.102).

<i>County</i>	<i>Common Level Ratio Factor</i>	<i>County</i>	<i>Common Level Ratio Factor</i>	<i>County</i>	<i>Common Level Ratio Factor</i>
Adams	3.98	*Elk	2.18	**Montour	1.00
Allegheny	1.10	Erie	1.18	Northampton	3.18
Armstrong	2.70	Fayette	1.14	Northumberland	3.64

<i>County</i>	<i>Common Level Ratio Factor</i>	<i>County</i>	<i>Common Level Ratio Factor</i>	<i>County</i>	<i>Common Level Ratio Factor</i>
Beaver	3.31	Forest	4.83	Perry	1.33
Bedford	5.47	Franklin	9.35	Philadelphia	3.50
Berks	1.33	Fulton	2.61	Pike	5.47
Blair	12.20	Greene	1.21	Potter	2.72
Bradford	2.63	Huntingdon	7.46	Schuylkill	2.48
Bucks	10.10	*Indiana	4.35	Snyder	6.58
Butler	10.20	Jefferson	1.85	Somerset	2.71
Cambria	3.60	Juniata	6.21	Sullivan	1.52
Cameron	3.08	Lackawanna	5.95	Susquehanna	2.84
Carbon	2.74	Lancaster	1.22	Tioga	1.25
Centre	3.24	Lawrence	1.14	**Union	1.00
Chester	1.82	Lebanon	6.80	Venango	1.05
Clarion	5.38	Lehigh	3.16	Warren	2.93
Clearfield	5.47	Luzerne	17.24	Washington	7.30
Clinton	4.24	Lycoming	1.10	Wayne	1.23
Columbia	3.47	McKean	1.09	Westmoreland	5.10
Crawford	3.02	Mercer	3.68	Wyoming	4.59
Cumberland	1.14	Mifflin	2.18	**York	1.00
Dauphin	1.33	Monroe	7.09		
Delaware	1.55	Montgomery	1.87		

\* Adjusted by the Department of Revenue to reflect assessment ratio change effective January 1, 2006.

\*\* Adjusted by the Department of Revenue to reflect assessment base change effective January 1, 2006.

GREGORY C. FAJT,  
*Secretary*

[Pa.B. Doc. No. 06-1035. Filed for public inspection June 9, 2006, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

**JDM Materials Company v. DEP; EHB Doc. No.  
2006-144-MG**

JDM Materials Company has appealed the issuance by the Department of Environmental Protection of an NPDES permit to JDM Materials Company for a facility in Middletown Township, Bucks County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER,  
*Chairperson*

[Pa.B. Doc. No. 06-1036. Filed for public inspection June 9, 2006, 9:00 a.m.]

## FISH AND BOAT COMMISSION

**Proposed Change to List of Class A Wild Trout Waters; Beaverdam Run, Somerset County**

The Fish and Boat Commission (Commission) is considering a change to its list of Class A Wild Trout Streams. Under 58 Pa. Code § 57.8a (relating to Class A wild trout streams), it is the Commission's policy to manage self-sustaining Class A wild trout populations as a renewable natural resource to conserve that resource and the an-

gling it provides. Class A wild trout populations represent the best of naturally reproducing trout fisheries in this Commonwealth. The Commission manages these stream sections solely for the perpetuation of the wild trout fishery with no stocking.

At its meeting on July 17 and 18, 2006, the Commission intends to consider removing the following water from the current list of Class A Wild Trout Streams: Section 01 of Beaverdam Run, a tributary to Laurel Run, Somerset County. This section extends from a pond outflow at SR 1035 in Daly downstream to a point 1.1 km downstream of the SR 1018 bridge, which is a distance of 3.85 miles.

Under the statement of policy, the criteria for Class A Wild Trout fisheries are species specific. Wild Trout Abundance Class Criteria include provisions for:

(i) Wild Brook Trout Fisheries

(A) Total brook trout biomass of at least 30 kg/ha (26.7 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lb/acre).

(C) Brook trout biomass must comprise at least 75% of the total trout biomass.

(ii) Wild Brown Trout Fisheries

(A) Total brown trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lb/acre).

(C) Brown trout biomass must comprise at least 75% of the total trout biomass.

(iii) Mixed Wild Brook and Brown Trout Fisheries

(A) Combined brook and brown trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lb/acre).

(C) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lb/acre).

(D) Brook trout biomass must comprise less than 75% of the total trout biomass.

(E) Brown trout biomass must comprise less than 75% of the total trout biomass.

(iv) Wild Rainbow Trout Fisheries

Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 2.0 kg/ha (1.78 lbs/acre).

For a water to be removed from the Class A Wild Trout Streams designation, total trout biomass must be documented below the set criteria for two consecutive stream examinations.

Commission staff conducted stream surveys on Beaverdam Run in 1998, 2000 and 2002—2004. In those five consecutive surveys, the stream failed to meet the Class A criteria. Accordingly, the Commission proposes that Section 01 of Beaverdam Run be removed from the list of Class A Wild Trout Streams.

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

Comments also may be submitted electronically by completing the form at [www.state.pa.us/fish/regcomments](http://www.state.pa.us/fish/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

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

[Pa.B. Doc. No. 06-1037. Filed for public inspection June 9, 2006, 9:00 a.m.]

**Proposed Special Regulation Designations and Redesignations**

The Fish and Boat Commission (Commission) has approved guidelines with regard to encouraging public participation on possible changes to the designation of streams, stream sections or lakes for special regulation programs. Under 58 Pa. Code Chapter 65 (relating to special fishing regulations), the Commission designates certain streams, stream sections and lakes as being subject to special fishing regulations. These designations are effective after Commission approval when they are posted at the site and a notice is published in the *Pennsylvania Bulletin*. Under the Commission's guidelines, a notice concerning the proposed designation or redesignation of a stream, stream section or lake under special regulations ordinarily will be published in the *Pennsylvania Bulletin* before the matter is reviewed by the Commissioners.

At the next Commission meeting on July 17 and 18, 2006, the Commission will consider designating or redesignating the following stream sections as waters subject to special fishing regulations under 58 Pa. Code Chapter 65, effective January 1, 2007:

*58 Pa. Code § 65.6. Delayed harvest artificial lures only areas*

The Commission will consider designating the following stream section as a delayed harvest artificial lures only (DHALO) area:

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
Lycoming	Pine Creek	From the mouth of Slate Run downstream to the vicinity of the confluence of Naval Run, a distance of 1.3 miles

The Commission will consider revising the limits of the following stream section currently regulated and managed as a DHALO area:

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
Monroe	McMichaels Creek	Extend the limits of the DHALO Area 0.54 mile further downstream to the Glenbrook Road (SR 2004) Bridge. The current limits are from a point 0.71 mile downstream of the bridge on Turkey Hill Road (T-416) downstream to the upstream boundary of Glen Brook Golf Course, a distance of 1.12 miles. The revised limits will read "From a point 0.71 mile downstream of the bridge on Turkey Hill Road (T-416) to Glenbrook Road (SR 2004) Bridge, a distance of 1.66 miles."

*58 Pa. Code § 65.15. Catch and release all-tackle areas*

The Commission will consider revising the limits of the following stream section currently regulated and managed as a catch and release all-tackle area:

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
Elk	Clarion River	Extend the limits for approximately 100 meters further downstream to the Main Street Bridge in Ridgway. The current limits are from the confluence of the East and West Branches downstream to the confluence with Elk Creek, a distance of 8.5 miles. The revised limits will read "From the confluence of the East and West Branches downstream to the Main Street Bridge in Ridgway, a distance of 8.6 miles."

At this time, the Commission is soliciting public input concerning these designations and redesignations. Persons with comments, objections or suggestions concerning the designations or redesignations are invited to submit comments in writing to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted. Comments also may be submitted electronically by completing the form at [www.state.pa.us/Fish/regcomments](http://www.state.pa.us/Fish/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

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

[Pa.B. Doc. No. 06-1038. Filed for public inspection June 9, 2006, 9:00 a.m.]

### 2006 Changes to List of Wild Trout Streams

Under 58 Pa. Code § 57.11 (relating to listing of wild trout streams), it is the policy of the Fish and Boat Commission (Commission) to accurately identify and classify stream sections supporting naturally reproducing populations of trout as wild trout streams. The Commission's Fisheries Management Division maintains the list of wild trout streams. The Executive Director, with the approval of the Commission, will from time to time publish the list of wild trout streams in the *Pennsylvania Bulletin*. The listing of a stream section as a wild trout stream is a biological designation that does not determine how it is managed. The Commission relies upon many factors in determining the appropriate management of streams.

At the next Commission meeting on July 17 and 18, 2006, the Commission will consider changes to its list of wild trout streams. Specifically, the Commission will consider the removal of the following stream from the list:

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Tributary to</i>	<i>Section Limits</i>
Cambria	Rock Run	Chest Creek	Headwaters downstream to mouth

The Commission also will consider the following adjustments to the list.

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Tributary to</i>	<i>Section Limits</i>	<i>Adjustment</i>
Berks	Willow Creek	Schuylkill River	Headwaters downstream to SR 1010; UNT Willow Creek (Rt. 73) downstream to mouth	Update Limits. Previous limits were Headwaters downstream to SR 1010; 375 m upstream from T-707 downstream to mouth
Berks	Wyomissing Creek	Schuylkill River	Headwaters downstream to mouth	Update Limits. Previous limits were dam near Mohnton's southern boundary downstream to mouth

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Tributary to</i>	<i>Section Limits</i>	<i>Adjustment</i>
Blair	Halter Creek	Frankstown Branch Juniata River	Headwaters downstream to mouth	Correct River Mile of entry from 38.65 to 40.73 and Lat/Lon from 401949/ 782434 to 402239/782521
Columbia	Mugser Run	South Branch Roaring Creek	Headwaters downstream to mouth	Update Limits. Previous limits were Fisherdale downstream to mouth
Columbia	Nescopeck Creek	Susquehanna River	Headwaters downstream to old bridge south of Lake Frances	Update Limits. Previous limits were SGL #187 upstream boundary downstream to old bridge south of Lake Francis
Columbia	Pine Creek	Huntington Creek	Headwaters downstream to mouth	Update Limits. Previous limits were T-541 downstream to mouth
Elk	Vineyard Run	Little Toby Creek	Headwaters downstream to mouth	Correct County. Previously listed as Jefferson County
Lackawanna	Roaring Brook	Lackawanna River	Headwaters downstream to mouth	Update Limits. Previous limits were Headwaters downstream to Myrtel Street, Scranton
Lackawanna	Stafford Meadow Brook	Lackawanna River	Headwaters downstream to mouth	Update Limits. Previous limits were Headwaters downstream to #5 dam
Luzerne	Harvey Creek	Susquehanna River	Meeker-Outlet Road (T810) to mouth	Update Limits (previous limits were T-497 downstream to mouth), and Name (previously Harveys Creek)
Luzerne	Wapwallopen Creek	Susquehanna River	Headwaters downstream to mouth	Update Limits. Previous limits were Headwaters downstream to SR 3013
Tioga	Babb Creek	Pine Creek	Benchmark 1698 upstream of Sand Run to Long Run	Correct Limits. Previous limits were Benchmark 1698 upstream of Sand Run to Lick Creek
York	Otter Creek	Susquehanna River	T-666 (Hake Road) downstream to mouth	Update Limits. Previous limits were T-666 Hake Road downstream to SR 2020 Gumtree Road

In addition, the Commission will consider the addition of the following streams or portions of streams to the list.

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Tributary to</i>	<i>Section Limits</i>
Berks	Bernhart Creek	Schuylkill River	Headwaters downstream to Bernhart Reservoir
Berks	UNT Antietam Lake (NW cove)	Antietam Lake	Headwaters downstream to mouth at Antietam Lake (full pool)
Berks	UNT Ontelaunee Creek	Ontelaunee Creek	Headwaters downstream to mouth
Blair	Plum Creek	Halter Creek	SR 0164 bridge downstream to mouth
Bradford	Long Valley Run	Schrader Creek	Headwaters downstream to mouth
Bradford	Towanda Creek	Susquehanna River	Headwaters downstream to South Ave. (T-998)
Cambria	Mill Creek	Bens Creek	Headwaters downstream to mouth
Carbon	Fawn Run	Lehigh River	Headwaters downstream to mouth



<i>County of Mouth</i>	<i>Stream Name</i>	<i>Tributary to</i>	<i>Section Limits</i>
Carbon	Mauch Chunk Creek	Lehigh River	Headwaters downstream to mouth
Carbon	Nesquehoning Creek	Lehigh River	Conf. Bear Creek downstream to mouth
Carbon	Tannery Creek	Lehigh River	Headwaters downstream to mouth
Carbon	White Bear Creek	Mauch Chunk Creek	Headwaters downstream to mouth
Chester	Beaver Run	French Creek	Headwaters downstream to mouth
Chester	East Branch Brandywine Creek	Brandywine Creek	SR 4031 downstream to Culbertson Run
Clarion	Boyd Run	Deer Creek	Headwaters downstream to mouth
Clarion	Bull Run	Coon Creek	Headwaters downstream to mouth
Clearfield	Mountain Lick Creek	Mountain Run	Source downstream to Boy Scout Pond
Clearfield	Rock Run—Burnside	West Branch Susquehanna River	Headwaters downstream to mouth
Columbia	Catawissa Creek	Susquehanna River	Headwaters downstream to SR 924 bridge
Delaware	Dismal Run	Ridley Creek	Headwaters downstream to mouth
Elk	Belvidere Run	Spring Creek	Headwaters downstream to mouth
Elk	Indian Run	East Branch Clarion River	Headwaters downstream to mouth
Forest	Bank Run	Spring Creek	Headwaters downstream to mouth
Forest	Dans Run	Coon Creek	Headwaters downstream to mouth
Forest	East Branch Hemlock Creek	Hemlock Creek	Headwaters downstream to mouth
Forest	Irish Run	Coon Creek	Headwaters downstream to mouth
Forest	Wolf Run	Spring Creek	Headwaters downstream to mouth
Indiana	Two Lick Creek	Blacklick Creek	Two Lick Reservoir to Yellow Creek
Jefferson	Coder Run	Redbank Creek	Headwaters downstream to mouth
Jefferson	Keys Run	Horm Run	Headwaters downstream to mouth
Jefferson	O'Donnell Run	Sandy Lick Creek	Headwaters downstream to mouth
Jefferson	Panther Run	Sandy Lick Creek	Headwaters downstream to mouth
Jefferson	Sandy Lick Creek	Redbank Creek	Headwaters downstream to upstream end Lake Sabula
Jefferson	Schoolhouse Run	Sandy Lick Creek	Headwaters downstream to mouth
Jefferson	UNT Sandy Lick Creek 48714	Sandy Lick Creek	Headwaters downstream to mouth
Jefferson	Whetstone Branch Little Toby Creek	Little Toby Creek	Headwaters downstream to mouth
Lehigh	Coplay Creek	Lehigh River	Dam above Hill Street (T-687) downstream to mouth
Luzerne	Balliet Run	Wapwallopen Creek	Headwaters downstream to mouth
Luzerne	Lewis Creek	Susquehanna River	Headwaters downstream to mouth
Luzerne	Linesville Creek	Lehigh River	Headwaters downstream to mouth
Luzerne	Pine Creek	Lehigh River	Headwaters downstream to mouth
McKean	Blacksmith Run	Marvin Creek	Headwaters downstream to mouth
Monroe	Bowers Creek	Hypsy Creek	Headwaters downstream to mouth
Monroe	Fall Creek	McMichael Creek	Headwaters downstream to mouth
Monroe	Hypsy Creek	McMichael Creek	Headwaters downstream to mouth
Monroe	Sambo Creek	Brodhead Creek	Pond downstream East Stroudsburg Filtration Plant downstream to mouth
Montgomery	Mill Creek	Schuylkill River	Gulph Road downstream to mouth
Pike	Conashaugh Creek	Delaware River	Headwaters downstream to mouth

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Tributary to</i>	<i>Section Limits</i>
Pike	Dry Brook	Delaware River	Headwaters downstream to mouth
Pike	Red Rock Run	Saw Creek	Headwaters downstream to mouth
Somerset	Cranberry Run	Elk Lick Creek	Headwaters downstream to mouth
Somerset	Flaugherty Creek	Casselman River	Headwaters downstream to SR 2006 bridge at intersection with T-566
Somerset	Little Piney Creek	Piney Creek	Elk Lick Rod and Gun Club Dam downstream to mouth
Somerset	South Fork Bens Creek	Bens Creek	Conemaugh Township Reservoir downstream to mouth
Somerset	Tub Mill Run	Casselman River	Headwaters downstream to mouth
Susquehanna	Laurel Lake Creek.	Silver Creek	Headwaters downstream to mouth
Tioga	Rock Run	Babb Creek	Source downstream to UNT 21760
Venango	Bear Run	South Sandy Creek	Headwaters downstream to mouth
Venango	Benninghof Run	Oil Creek	Headwaters downstream to mouth
Venango	Burford Run	East Sandy Creek	Headwaters downstream to mouth
Venango	Cornplanter Run	Oil Creek	Headwaters downstream to mouth
Venango	Panther Run	Allegheny River	Headwaters downstream to mouth
Venango	Patchel Run	French Creek	Headwaters downstream to mouth
Venango	Stewart Run	Allegheny River	Headwaters downstream to mouth
Venango	UNT Oil Creek 54192	Oil Creek	Headwaters downstream to mouth
Venango	UNT Oil Creek 54205	Oil Creek	Headwaters downstream to mouth
Warren	Andrews Run	Brokenstraw Creek	Headwaters downstream to mouth
Warren	Connelly Run	Allegheny River	Headwaters downstream to mouth
Warren	Dunn Run	Allegheny River	Headwaters downstream to mouth
Warren	Irvine Run	Brokenstraw Creek	Headwaters downstream to mouth
Warren	Matthews Run	Brokenstraw Creek	Headwaters downstream to mouth
Warren	McGuire Run	Allegheny River	Headwaters downstream to mouth
Warren	North Branch Akeley Run	Akeley Run	Headwaters downstream to mouth
Warren	Rhine Run	Conewango Creek	Headwaters downstream to mouth
Warren	Storehouse Run	Conewango Creek	Headwaters downstream to mouth
Warren	UNT Minister Creek 55211	Minister Creek	Headwaters downstream to mouth
Warren	UNT Minister Creek 55214	Minister Creek	Headwaters downstream to mouth
Wayne	Seeley Brook	Wallenpaupack Creek	House Pond downstream to Lake Wallenpaupack

Persons with comments, objections or suggestions concerning the classification of the streams listed may submit them in writing to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

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

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

[Pa.B. Doc. No. 06-1039. Filed for public inspection June 9, 2006, 9:00 a.m.]

## HOUSING FINANCE AGENCY

### 2007 Low Income Housing Tax Credit Allocation Plan Public Hearing

The Housing Finance Agency (Agency), as the Administrator of the Federal Low Income Housing Tax Credit Program for the Commonwealth, provides notice of a public hearing to obtain public comment on the proposed 2007 Low Income Housing Tax Credit Allocation Plan. This public hearing will be held at 9 a.m. on Friday, June 23, 2006, at the Housing Finance Agency, 211 North Front Street, Harrisburg, PA. Copies of the proposed allocation plan are available upon written request at the following address, by phone at (717) 780-3948 or through the Agency's website at [www.phfa.org](http://www.phfa.org).

Persons with a disability who wish to attend this meeting and require an auxiliary aid, service or other accommodation to participate should contact the Secretary by Thursday, June 22, 2006, to discuss how the Agency may best accommodate their needs.

Individuals wishing to comment on the plan but unable to attend the scheduled hearing are invited to provide written comments no later than Thursday, June 22, 2006, to Manager, Tax Credit Program, Housing Finance Agency, P. O. Box 8029, Harrisburg, PA 17105-8029, TTY (717) 780-1869 for hearing impaired.

Written comments must be submitted prior to the date of the scheduled hearing or at the public hearing. Persons who plan to attend the public hearing should contact the Agency at (717) 780-3948.

BRIAN A. HUDSON,  
*Executive Director*

[Pa.B. Doc. No. 06-1040. Filed for public inspection June 9, 2006, 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. § 745.5b).

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>
57-245	Pennsylvania Public Utility Commission Alternative Energy Portfolio Standards; Interconnection Standards for Customer-Generators 36 Pa.B. 942 (February 25, 2006)	4/26/06	5/26/06

### Pennsylvania Public Utility Commission Regulation #57-245 (IRRC #2524)

#### Alternative Energy Portfolio Standards; Interconnection Standards for Customer-Generators

May 26, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the February 25, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Pennsylvania Public Utility Commission (PUC) to respond to all comments received from us or any other source.

#### 1. General—Consistency with statute; Economic impact; Reasonableness; Need; Feasibility.

##### Screening criteria

Under 73 P. S. §§ 1648.3(b) and (c), Electric Distribution Companies (EDC) are specifically directed to use progressive amounts of alternative energy sources. However, under "force majeure" (73 P. S. § 1648.2), the PUC must also make determinations on whether "alternative

energy sources are reasonably available in the marketplace in sufficient quantities . . . ."

Levels 1, 2, 3 and 4 each have criteria to screen out interconnection requests that may be incompatible with or cause problems in the electric system. While we agree that screening is appropriate, it is not clear what practical effect these criteria will impose. We note that the PUC is requesting comment on several of these criteria including the "5% of the spot network's maximum load" and "an 85% fault current limit." We are concerned that these criteria could serve as barriers to the development and use of alternative energy. In the final-form regulation submittal, the PUC should explain how these criteria strike the appropriate balance between the need to protect the electric grid and allowing alternative energy sources to be reasonably available in the marketplace in sufficient quantities.

##### Cost recovery

Although 73 P. S. § 1648.3(a) generally addresses cost recovery, commentators raised several questions regarding cost recovery and responsibility which are not explicitly addressed in this regulation. For example, the EDCs express a legitimate concern as to whether the language of this regulation would allow them to recover single point of interconnection costs through rates. Subsection 75.36(8) states an "EDC may propose to interconnect

more than one small generator facility at a single point of interconnection to minimize costs to the customer generator . . . .” On the other hand, Subsection 75.37(b)(5) states “construction of facilities by the EDC on its own system is not required to accommodate the small generator facility.” If an EDC spends money to provide a single point of interconnection under Subsection 75.36(8), recovery of that investment could be jeopardized because Subsection 75.37(b)(5) states the investment was not required.

Commentators raised issues that are directly and unavoidably related to the development of alternative energy and, if left unaddressed, may hamper the development of alternative energy. Potential investors in new generation could encounter unexpected or unreasonable costs related to construction or litigation. EDCs could be hesitant to interconnect alternative energy or expend their resources if they are uncertain of whether the PUC will allow them to recover costs through rates. There are also questions raised by some commentators over inappropriate subsidization of alternative energy by ratepayers. Hence, this regulation should clearly specify what interconnection costs and alternative energy costs the EDC can recover through rates set by the PUC and what costs are the responsibility of the generator.

#### *Insurance and indemnification*

The PUC invited comment on requiring insurance. Based on the comments filed, insurance is a significant and contentious issue. We question how interconnections with alternative energy suppliers can be realistically done without insurance protection. However, since specific language was not provided in the proposed rulemaking, the PUC effectively circumvented review of regulatory language regarding insurance by the House Consumer Affairs Committee, the Senate Consumer Protection and Professional Licensure Committee and this Commission. Language added to the regulation to require insurance would have to be done in another proposed rulemaking.

Comments were submitted in favor of requiring insurance to protect the EDC from losses due to malfunctions and against requiring insurance because it would increase costs. Some commentators argue that insurance should not be required to be consistent with the Mid-Atlantic Distributed Resource Initiative and New Jersey on this issue. We note that Subsections 75.37(a) and 75.38(a) state an “EDC may not impose additional requirements . . . not specifically authorized under this subchapter.” Therefore, unless language is added to the regulation regarding insurance, the EDC would be prohibited from requiring insurance.

*“Consistent with rules defined in other states within the service region”*

Under 73 P. S. § 1648.5, the PUC must develop rules “. . . consistent with rules defined in other states within the service region . . . .” Several commentators have cited inconsistency with rules in New Jersey. The PUC should explain how the final-form regulation meets the statutory directive in 73 P. S. § 1648.5 to be consistent with other states.

#### *Timelines for interconnection review*

Sections 75.37, 75.38, 75.39 and 75.40 specify timelines for interconnection review procedures. Several commentators suggested shorter timelines for review. The PUC should explain why the timelines chosen for the final-form regulation are appropriate.

#### *Designated address*

In Section 75.37(c)(2), the PUC has recognized potential problems with receipt of interconnection requests. Given the timelines for review of interconnection requests, the final-form regulation should require EDCs to establish a designated address for receipt of interconnection requests.

#### *Inverter for interconnection*

Sections 75.34, 75.37, 75.38, 75.39 and 75.40 make distinctions on inverter-based or noninverter-based equipment. We note that the definitions of “alternative energy sources,” “Tier I alternative energy source” and “Tier II alternative energy source” in 73 P. S. § 1648.2 list many broad categories of sources, but do not distinguish them by whether they require inverters or not. The PUC should explain why the distinction of inverter-based or noninverter-based equipment is needed.

#### *Advanced Notice of Final Rulemaking*

In the Preamble, the PUC requests comments on several issues and provisions. The PUC convened a stakeholder process for the proposed rulemaking consistent with 73 P. S. § 1648.5. We suggest continuing the stakeholder process. In addition, the PUC should publish an Advanced Notice of Final Rulemaking to provide an opportunity to resolve any controversy with these issues prior to submittal of a final-form regulation.

## **2. Section 75.22. Definitions.—Reasonableness; Clarity.**

#### *Substantive provisions in definitions*

Substantive provisions in a definition cannot be enforced. The following definitions contain substantive provisions: “Certificate of completion,” “Interconnection system impact study” and “Queue position.” The substantive provisions in these definitions should be deleted and addressed in the appropriate sections of the regulation.

#### *“As amended and supplemented”*

The definition of “certified” refers to IEEE and UL standards “as amended and supplemented.” However the definitions of “IEEE standard 1547,” “IEEE standard 1547.1” and “UL standard 1741” are defined as “the most current official published version.” For consistency, the same phrase should be used in all of these definitions.

#### *Affected system*

A commentator has suggested adding this term to the definitions and use of the term throughout the regulation. We agree that any system that may be affected by the generator, including neighboring EDC, should be a party to the consideration of the impact of that generator on their system.

#### *Electric nameplate capacity*

This term is defined as the “net maximum or net instantaneous peak electric output capability measured in volt-amps of a small generator facility as designated by the manufacturer.” This term is used in Section 75.34 to determine whether an interconnection request is reviewed under Level 1, 2 or 3 procedures as well as evaluations under Sections 75.36(1) and (2). Some commentators believe that using a “net” output capability does not reflect the size of the generator connecting to the system and may allow review at an inappropriate level. The PUC should explain why the net electric output capability is appropriate.

*Technical terms*

By its nature, this regulation uses technical terms including “radial distribution circuit,” “draw-out type circuit breaker,” “secondary,” “center tap neutral” and “anti-islanding function.” These terms are used in making pivotal determinations in screening interconnection requests. The PUC should define these terms or reference technical standards where available so that there is no misunderstanding between parties in developing or reviewing an interconnection request. This would also potentially avoid the cost of proceedings under Section 75.51 relating to disputes.

**3. Section 75.33. Fees and forms.—Economic impact; Reasonableness.**

This provision states the PUC will determine appropriate interconnection fees. The regulation requires the EDC to designate a contact person, review interconnection requests, develop interconnection studies and provide good faith cost estimates. We again note that questions were raised by some commentators over inappropriate subsidization of alternative energy by ratepayers.

Since the fees are not specified or implemented, we are unable to evaluate this provision and what costs fees cover. In the final-form regulation, the PUC should provide detailed information on the fees and forms required in relation to our criteria of economic impact, reasonableness and clarity. Also, the PUC should either develop the fees through a rulemaking or in EDC tariffs.

**4. Section 75.36. Additional general requirements.—Reasonableness; Economic impact; Clarity.***Paragraph (3) EDC records*

Subparagraph (ii) requires records of “the times to complete interconnection request approvals and disapprovals.” If the records are envisioned to require the number of days, this subparagraph should state “the number of days” rather than “the times.”

Subparagraph (v) requires records of requests that were not processed within “established timelines.” This provision is vague. The regulation should state what specific timelines the EDC did not meet that have to be reported, or cross-reference the applicable provisions that establish timelines.

*Paragraph (6) Interconnection request*

This provision is not clear because the requirement is separated by three exceptions. This provision should be rewritten to improve clarity.

*Paragraph (8) Single point of interconnection*

There are four areas of concern.

First, the opening sentence is not clear. It begins with what the EDC may propose, but ends with what appears to be a separate circumstance the EDC may not refuse. For clarity, the opening sentence should be broken into two sentences.

Second, the EDC has obligations to many customer classes, investors and the PUC. While we agree that costs should be minimized, why is the EDC’s ability to make a proposal for a single point of connection limited to the circumstance of minimizing costs to the customer-generator? Should other circumstances be allowed such as to minimize the EDC’s costs or enhance system reliability and safety? How would the PUC evaluate the EDC’s cost recovery under this circumstance?

Third, the requirement that an EDC “may not unreasonably refuse a request to do so” is vague. The regulation should provide clear guidance on what the PUC will consider to be “unreasonable.” Also, what type of request is this requirement related to?

Finally, the provision that an EDC “may not unreasonably refuse a request to do so.” appears to be inconsistent with Section 75.37(a)(5) which states “construction of facilities by the EDC on its own system is not required to accommodate the small generator facility.” The PUC should reconcile these requirements.

*Paragraph (9) Isolation device*

Commentators believe the requirement for a “lockable, visible break isolation device” is not needed, expensive and redundant for equipment that meets IEEE 1547. The PUC should explain the need for this provision.

**5. Section 75.37. Level 1 interconnection review.—Clarity.***Subsection (b) Level 1 screening criteria*

Paragraph (b)(2) uses the undefined term “equipment package.” In the PUC’s proposed rulemaking published in the February 4, 2006 *Pennsylvania Bulletin* titled “Alternative Energy Portfolio Standards,” the term “equipment package” is defined, but would only apply to Subchapter B Net Metering of Chapter 75. The definition of “equipment package” should be added to Subchapter C of Chapter 75.

*Subsection (c) Level 1 interconnection review procedure*

Paragraph (4) states, “. . . the EDC shall sign the interconnection request form . . . .” This should state “approve” rather than “sign” to be consistent with Paragraph (5) which addresses new interconnection requests when a small generator facility is not “approved” under a Level 1 review.

**6. Sections 75.38. Level 2 interconnection review and 75.39. Level 3 interconnection review.—Reasonableness; Clarity.***“May not be unreasonably denied”*

Subsections 75.38(f) and 75.39(h) both state, “The request for extension may not be unreasonably denied by the EDC.” The word “unreasonably” is not clear. What criteria must the EDC use to establish the reasonableness of a request for extension?

**7. Section 75.40. Level 4 interconnection review.—Clarity.***Business days*

Subparagraph (c)(7)(i) allows “. . . 25 days to conduct an area network impact study . . . .” Other provisions specify timeframes in “business days.” For consistency this provision should specify business days also.

ALVIN C. BUSH,  
*Chairperson*

[Pa.B. Doc. No. 06-1041. Filed for public inspection June 9, 2006, 9:00 a.m.]

### Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market St., 14th Floor, Harrisburg at 10:30 a.m. To obtain a copy of a 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.

This schedule is tentative. Contact the Commission at (717) 783-5417 or check our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us) for updates.

*Final-Omit  
Reg. No.*

*Agency/Title*

*Received*

*Public Meeting*

4-86

Department of Community and  
Economic Development  
Building Energy Conservation Standards

5/24/06

7/6/06

16A-5611

State Real Estate Commission  
Seller Property Disclosure Statement

5/25/06

7/6/06

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 06-1042. Filed for public inspection June 9, 2006, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for a Domestic Certificate of Authority

Region 6 Rx Corp. has applied for a Certificate of Authority to operate as a domestic stock life insurance company in this Commonwealth. The initial filing was received on May 25, 2006, and was made under The Insurance Company Law of 1921 (40 P. S. §§ 341—991). Persons wishing to comment on the application are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Written statements must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Cressinda E. Bybee, Insurance Company Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, [cbybee@state.pa.us](mailto:cbybee@state.pa.us).

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1043. Filed for public inspection June 9, 2006, 9:00 a.m.]

### Application for Voluntary Surrender of Certificate of Authority

Presbyterian Home for Aged Couples & Aged Persons in the State of Pennsylvania, a domestic continuing care retirement community provider, has submitted an application for approval to surrender its Insurance Department (Department) Certificate of Authority. Persons wishing to comment on the grounds of public or private interest concerning the surrender are invited to submit a written statement to the Department within 14 days from the date of this issue of the *Pennsylvania Bulletin*. Written statements must include the name, address and

telephone number of the writer, identification of the application to which the comment is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the comment and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Chief, Company Licensing Division, Room 1311 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, [rbrackbill@state.pa.us](mailto:rbrackbill@state.pa.us).

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 06-1044. Filed for public inspection June 9, 2006, 9:00 a.m.]

### Progressive Specialty Insurance Company; Private Passenger Automobile Rate and Rule Revisions; Rate Filing

On May 26, 2006, the Insurance Department (Department) received from Progressive Specialty Insurance Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 0.2% increase amounting to \$0.2 million annually, to be effective September 5, 2006, for new business and October 15, 2006, for renewal business.

Unless formal administrative action is taken prior to July 25, 2006, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Michael P. McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, mmckenney@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 06-1045. Filed for public inspection June 9, 2006, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board leases will expire:

Allegheny County, Wine & Spirits Shoppe #0203, Braddock Hills Shopping Ctr., 230 Yost Blvd., Pittsburgh, PA 15221.

*Lease Expiration Date:* May 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space in a shopping center environment within 3/4 mile of the intersection of Yost Boulevard and Ardmore Boulevard (Route 30), Pittsburgh.

*Proposals due:* June 30, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** George Danis, (412) 565-5130

Allegheny County, Wine & Spirits Shoppe #0217, 1110 Fourth Avenue, Coraopolis, PA 15108.

*Lease Expiration Date:* May 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,200 net useable square feet of new or existing retail commercial space in Coraopolis. The site should have access for tractor-trailer deliveries.

*Proposals due:* June 30, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Craig Johnson, (412) 565-5130

Allegheny County, Wine & Spirits Shoppe #0279, 722 Brookline Boulevard, Pittsburgh, PA 15226.

*Lease Expiration Date:* May 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,800 net useable square feet of new or existing retail commercial space on Brookline Boulevard in the City of Pittsburgh. The site must have rear door access for tractor-trailer deliveries.

*Proposals due:* June 30, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-5130

Allegheny County, Wine & Spirits Shoppe #0293, Southland Shopping Center, 523 Clairton Boulevard, Pittsburgh, PA 15236.

*Lease Expiration Date:* January 31, 2011

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,600 to 4,000 net useable square feet of new or existing retail commercial space in a shopping center environment fronting SR 51 within 1/2 mile of the intersection with East Bruceton Road in Pleasant Hills.

*Proposals due:* June 30, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-5130

Allegheny County, Wine & Spirits Shoppe #0297, Village Shopping Center, 1874 Homeville Road, West Mifflin, PA 15122.

*Lease Expiration Date:* June 30, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space in a shopping center environment within 1/2 mile of the intersection of Homeville and Homestead-Duquesne Roads in West Mifflin.

*Proposals due:* June 30, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-5130

Allegheny County, Wine & Spirits Shoppe #9207, Wexford Plaza Shopping Center, 10660 Perry Highway, Wexford, PA 15090.

*Lease Expiration Date:* August 31, 2008

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 6,000 net useable square feet of new or existing retail commercial space in a shopping center environment within 1.0 mile of the intersection of Routes 19 and 910 in Pine Township.

*Proposals due:* June 30, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** George Danis, (412) 565-5130

Bedford County, Wine & Spirits Shoppe #0502, 600 Main Street, Saxton, PA 16678.

*Lease Expiration Date:* May 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 1,200 net useable square feet of new or existing retail commercial space in Saxton. The site

must have free off-street parking and access for tractor-trailer deliveries.

*Proposals due:* June 30, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-5130

Erie County, Wine & Spirits Shoppe #2513, 828 East Sixth Street, Erie, PA 16507.

*Lease Expiration Date:* May 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space in a shopping center environment located within 1/3 mile of the intersection of East 6th and Wayne Streets, Erie.

*Proposals due:* June 30, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-5130

Forest County, Wine & Spirits Shoppe #2702, 644 Elm Street, Tionesta, PA 16353.

*Lease Expiration Date:* May 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 1,800 net useable square feet of new or existing retail commercial space in Tionesta. The site must have free off-street parking and access for tractor-trailer deliveries.

*Proposals due:* June 30, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Craig Johnson, (412) 565-5130

Warren County, Wine & Spirits Shoppe #6202, 212 South Main Street, Sheffield, PA 16347.

*Lease Expiration Date:* May 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 1,200 net useable square feet of new or existing retail commercial space in the Business District of Sheffield. The site must have free off-street parking and access for tractor-trailer deliveries.

*Proposals due:* June 30, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Craig Johnson, (412) 565-5130

JONATHAN H. NEWMAN,  
*Chairperson*

[Pa.B. Doc. No. 06-1046. Filed for public inspection June 9, 2006, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Recalculation of the Pennsylvania Telecommunications Relay Service Surcharge; M-00900239 F0010

Public Meeting held  
 May 19, 2006

*Commissioners Present:* Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzigrilli; Terrance J. Fitzpatrick

#### Order

#### *By the Commission:*

In accordance with our May 29, 1990 Order at Docket No. M-00900239, which established the Pennsylvania Telephone Relay Service (Relay) and a surcharge funding mechanism (TRS surcharge); and with Act 34 of 1995, 35 P. S. §§ 6701.1, et seq.,<sup>1</sup> which established the Telephone Device Distribution Program (TDDP) to be funded by the TRS surcharge and which codified Relay and use of the TRS surcharge funding mechanism; and with Act 174 of 2004, 35 P. S. § 6701.3a, which established the Print Media Access System Program (PMASP) to be funded in part by the TRS surcharge,<sup>2</sup> we have completed the 16th annual recalculation of the TRS surcharge as it applies to residence and business wireline access lines for July 1, 2006, through June 30, 2007.

As part of their continuing obligations under the TRS surcharge recalculation process, the local exchange carriers (LECs)<sup>3</sup> have submitted their wireline access line counts. The total number of wireline access lines, adjusted for Centrex lines, is 7,485,756, which includes 5,031,478 residence wireline access lines and 2,454,278 business wireline access lines. The Relay Provider, AT&T Communications of Pennsylvania, LLC, has submitted the estimated minutes of use and charges for July 1, 2006, through June 30, 2007. U.S. Bank,<sup>4</sup> the Fund Administrator, has provided a statement of the financial status of the Fund.<sup>5</sup> The executive director of the Office of Vocational Rehabilitation (OVR) in the Department of Labor and Industry has submitted the 2006-2007 TDDP budget and the 2006-2007 PMASP budget. Additionally, the surcharge will fund the final five months of the December 2005–November 2006 Relay consumer education outreach program,<sup>6</sup> Captioned Telephone Voice-Carry-Over Relay Service (CTVRS), TRS Advisory Board activities, and Fund administration costs.

Based upon the number of wireline access lines; the cost of the consumer education outreach campaign; the

<sup>1</sup> The statutory provisions were also amended by Act 181 of 2002 to be more inclusive of persons with disabilities.

<sup>2</sup> PMASP is a reading service for persons with certain vision and physical disabilities. The law is now called the "Universal Telecommunications and Print Media Access Act."

<sup>3</sup> Including both incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs). This total is further adjusted under a Centrex equivalency formula.

<sup>4</sup> As a result of mergers, acquisitions, and name changes, Fund administration has been handled by Hamilton Bank, CoreStates Bank N.A. (1995), First Union National Bank (1999), Wachovia Bank, N.A. (2002), and U.S. Bank Institutional Custody (2006).

<sup>5</sup> Separate accounts are maintained for the portion of the surcharge allocated to Relay, the portion allocated to TDDP, and the portion allocated to PMASP. Relay Advisory Board, CTVRS, and outreach activities draw from the Relay account; Fund administration draws from each respective account.

<sup>6</sup> On June 3, 2003, AT&T was directed to submit an Implementation Plan of its proposal for consumer education outreach. On September 29, 2003, the Commission accepted the Implementation Plan. W.J. Green & Associates, Inc. started the outreach campaign in October, 2003. The two-year campaign, at a cost of \$500,000 per year, runs through September 30, 2005. At that time, the results of the campaign were evaluated, and a determination to continue for another year was made. This third year began December 2005 and will end November 2006.



estimated cost of the CTVRS; the projected costs of Relay, TDDP, and PMASP, anticipated TRS Advisory Board expenses and TRS Fund administration costs, coupled with the financial status of the TRS Fund,<sup>7</sup> we shall set the 2006-2007 residential and business monthly wireline access line surcharge at \$0.08 and \$0.09, respectively.<sup>8</sup> Effective July 1, 2006, the monthly surcharge shall be allocated as follows:<sup>9</sup>

	2006-2007 Monthly Surcharge	
	Residence	Business
Relay	\$0.08	\$0.09
TDDP	\$0.00	\$0.00
PMASP	\$0.00	\$0.00
<b>Total Surcharge</b>	<b>\$0.08</b>	<b>\$0.09</b>

All TRS surcharge revenues shall continue to be remitted to the Fund Administrator.<sup>10</sup>

We shall continue our active oversight of the operations of the Pennsylvania Relay and continue to collaborate with OVR and its TDDP administrator (Hiram G. Andrews Center, Johnstown, PA) to ensure adequate funding for distribution of TDDP equipment to low-income households in accordance with 35 P. S. §§ 6791.3 and 4. We shall also work with OVR to ensure adequate funding for PMASP in accordance with 35 P. S. §§ 6791.3a and 4.

Additionally, it should be noted that the Commission is currently auditing the TDDP for fiscal year ended June 30, 2005. The scope of the audit concentrated on examining the underlying costs associated with TDDP during the audit period. Also, reviewed was the certification of the eligibility of individuals applying for TDDP participation and the distribution of TDDP equipment and devices to TDDP participants. Based on this audit, the Commission is generally satisfied that ratepayer funds were appropriately used for the TDDP during the audit period; *Therefore,*

*It Is Ordered That:*

1. For the period of July 1, 2006, through June 30, 2007, the residence surcharge per wireline access line per month shall be \$0.08 and the business surcharge per wireline access line per month shall be \$0.09, unless we take further action to revise the TRS surcharge prior to June 30, 2007.

2. All incumbent local exchange carriers and competitive local exchange carriers are directed to use the attached form to remit the monthly TRS surcharge collections to U.S. Bank, Institutional Custody.

3. All incumbent local exchange carriers and competitive local exchange carriers are directed to file revised tariff supplements to become effective July 1, 2006, on at least one day's notice, which reflect the residence and business surcharges in accordance with Ordering Paragraph No. 1, above.

4. The Relay Provider, AT&T Communications LLC, is directed to work with the Bureau of Audits in conjunction with on-going audit activities.

<sup>7</sup> The TRS Fund currently has two accounts, one for Relay and one for TDDP. A third account is being created for PMASP. The initial funding of the PMASP account will be addressed by Secretarial Letter.

<sup>8</sup> The annual expense is based on the estimated annual charges submitted by AT&T Relay, estimated annual TRS Advisory Board expenses, estimated annual compensation to the Fund Administrator, contracted cost of Relay outreach campaign, staff estimated annual charges for CTVRS use; and the estimated annual budget for the TDDP and PMASP submitted by OVR.

<sup>9</sup> The TRS surcharge appears as a single line item on customers' bills but actually has three components (Relay, TDDP, and PMASP).

<sup>10</sup> LECS shall remit surcharge revenues to U.S. Bank Institutional Custody, Attn: Sue Massey, 123 S. Broad St., PA-4945, Philadelphia, PA 19109, payable to the "PA Relay Service Fund" and designated for Relay.

5. A copy of this Order be served upon all incumbent local exchange carriers and competitive local exchange carriers, AT&T Communications Company of Pennsylvania, LLC, U.S. Bank Institutional Custody, the Office of Vocational Rehabilitation in the Department of Labor and Industry, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Telephone Association.

6. A copy of this Order be published in the *Pennsylvania Bulletin*.

7. A copy of this Order be posted to the Commission's website.

JAMES J. MCNULTY,  
*Secretary*

**REMITTANCE FORM FOR MONTHLY TRS SURCHARGE COLLECTIONS 2006-2007**

Effective July 1, 2006 through June 30, 2007  
M-00900239F0010

All local service providers are required to collect and remit the TRS surcharge revenue monthly, by the 20th of each month, to U.S. Bank Institutional Custody, ATTN: Sue Massey, PA-4945, 123 South Broad Street, Philadelphia, PA 19109. Please make your remittance checks payable to the Pennsylvania TRS Fund. It is advisable to use the following format for the monthly remittance:

*Pennsylvania TRS Surcharge*

For the Month Ending \_\_\_\_\_

Number of Residential access lines (Relay) × \$0.08 per line	_____
Number of Residential access lines (TDDP) × \$0.00 per line	_____
Number of Residential access lines (PMASP) × \$0.00 per line	_____
Number of Business access lines (Relay) × \$0.09 per line	_____
Number of Business access lines (TDDP) × \$0.00 per line	_____
Number of Business access lines (PMASP) × \$0.00 per line	_____
<b>Total Remittance</b>	<b>=====</b>

**Make check payable to:** Pennsylvania TRS Fund

**Send Report and payment to:** U.S. Bank Institutional Custody  
Sue Massey,  
PA-4945  
123 South Broad Street  
Philadelphia, PA 19109

Remittance for: \_\_\_\_\_ Company name(s)

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please direct any questions regarding the TRS Surcharge remittance to Eric Jeschke at (717) 783-3850 or [ejeschke@state.pa.us](mailto:ejeschke@state.pa.us).

[Pa.B. Doc. No. 06-1047. Filed for public inspection June 9, 2006, 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 July 3, 2006. 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-00122733. Fredrick R. Yoder** (428 Hickory Lane, Belleville, Mifflin County, PA 17004)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Mifflin to points in Pennsylvania, and return.

**A-00122750. Carol Jean Bronner t/a Way Out of No Way** (P. O. Box 30235, Elkins Park, Montgomery County, PA 19027)—persons, in paratransit service, from points in the County of Philadelphia, to points in Pennsylvania and return.

**A-00122748. Wayne R. and Donna M. Cunningham, Tenants by Entirety** (1728 Fern Glen Drive, Drumore, Lancaster County, PA 17518)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

**A-00122747. James Edward Winkelmann** (835 Lancaster Pike, Quarryville, Lancaster County, PA 17566)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

**A-00122743. Richard L. Fisher** (P. O. Box 42, Bart, Lancaster County, PA 17503)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

**A-00122731. Judy L. Bogar** (P. O. Box 163, New Berlin, Union County, PA 17855)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the Counties of Union and Snyder to points in Pennsylvania, and return.

**A-00122810. William F. March t/a Eagle Valley Transportation** (2298 William Penn Way, Lancaster, Lancaster County, PA 17601)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

**A-00122816. Louis Bianco** (15 West Acacia Street, Hazleton, Luzerne County, PA 18201)—persons, upon call or demand, between points in the City of Hazleton, Luzerne County, and within an airline distance of 12 statute miles of the limits of the City of Hazleton.

**A-00122786. F.2. Jerome Miller** (154 Johnson Road, Delta, York County, PA 17314)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the Counties of Lancaster, York and Chester, to points in Pennsylvania, and return. *Attorney:* Andrea S. Anderson, Esquire, 901 Delta Road, Red Lion, PA 17356.

**A-00122821. Deborah A. Haney t/a Anthracite Personal Care Agency** (545 North Third Street, Minersville, Schuylkill County, PA 17954)—persons, in paratransit service, from points in the County of Schuylkill, to points in Pennsylvania and return.

**A-00122818. Brookville Limousine Service, LLC** (5268 Route 322, Brookville, Jefferson County, PA 15825)—persons, in limousine service, between points in the County of Jefferson and an area within 30 statute miles of the borders of said county, to points in Pennsylvania, and return. *Attorney:* Patricia Armstrong, 212 Locust Street, Suite 500, Harrisburg, PA 17101.

**A-00122837. Hugh A. McKnight** (265 McKnight Road, McClure, Fayette County, PA 17841)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Snyder to points in Pennsylvania, and return.

**A-00122838. Miroslav Ayrapietian** (2249 Brigade Road, Enola, Cumberland County, PA 17025)—persons upon call or demand, in the City of Harrisburg, Steelton, Highspire and Middletown, all located in Dauphin County.

### Application of the following for approval of the *additional right and privilege of operating motor vehicles as common carriers for transportation of persons by transfer of rights as described under the application.*

**A-00122387. F.2. Steven E. Kolesar t/a Epic Limousine** (510 Hemlock Court, Coraopolis, Allegheny County, PA 15108)—persons in limousine service, between points in Pennsylvania, excluding service between points in Allegheny County; which is to be a transfer of all the rights authorized under the certificate issued at A-00107066, F.3, to Willard A. Wilkinson t/a Wilkinson Bus Lines, subject to the same limitations and conditions. *Attorney:* John A. Pillar, Esquire, 680 Washington Road, Suite B101, Pittsburgh, PA 15228.

### Applications of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.*

**A-00122548. Fusaro Brothers, Inc.** (117 Leedom Avenue, Bala Cynwyd, Montgomery County, PA 19006) a corporation of the Commonwealth—for the right to begin to transport, as a common carrier, by motor vehicle, persons, upon call or demand, from points in Lower Merion bounded by the Schuylkill River on the east, Spring Mill Road on the north, the Montgomery County line on the west and City Line Avenue on the south; which is to be a transfer of all of the rights authorized under the certificate issued at A-00101815, F.1 and

A-00101815, F.1, Am-A to Maxwell Taxicab Company, subject to the same limitations and conditions. *Attorney:* David P. Temple, Esquire, 1760 Market Street, Suite 1100, Philadelphia, PA 19103.

**A-00122817. Stephen V. Taylor and James J. Sonberger t/a West Penn Coach** (3945 Neville Avenue, Pittsburgh, Allegheny County, PA 15224)—persons in limousine service, between points in Pennsylvania, which is to be a transfer of all the limousine rights authorized under the certificate issued at A-00117885, F.1 and F.1, Am-A to John W. Caldwell t/a Caldwell's Airport and Sedan Service, subject to the same limitations and conditions. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219.

**A-00122824. Trans-Med Ambulance, Inc.** (100 Dille Street, Forty Fort, Luzerne County, PA 18704), a corporation of the Commonwealth—persons, in paratransit service, between points in the Counties of Lackawanna, Luzerne, Monroe and Wyoming; which is to be a transfer of the rights authorized under the certificate issued at A-00111634, F.1, Am-A to Homer A. Berlew and Frederick R. Buckman, Copartners, t/a Trans-Med Ambulance/Wheelchair Van Service, subject to the same limitations and conditions.

**Applications of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under each application.**

**A-00122529, F.2. Founders Crossing, Inc.** (P. O. Box 533, Bedford, Bedford County, PA 15522), a corporation of the Commonwealth—for the additional right to transport, as a common carrier, by motor vehicle, persons in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the County of Bedford, to points in Pennsylvania, and return.

**A-00122529, F.3. Founders Crossing, Inc.** (P. O. Box 533, Bedford, Bedford County, PA 15222)—a corporation of the Commonwealth—for the additional right to transport, as a common carrier, by motor vehicle, persons in paratransit service from points in the County of Bedford to points in Pennsylvania, and return.

**A-00117849, F.3. Barry J. Grife t/a Park Place Limousine Service** (P. O. Box 480, Doylestown, Bucks County, PA 18901)—for the additional right to transport, as a common carrier, by motor vehicle, persons in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the Counties of Bucks and Montgomery and the City and County of Philadelphia, to points in Pennsylvania, and return.

**A-00100766, F.4. Allegheny Limousines, Inc** (326 Lucille Street, Pittsburgh, Allegheny County, PA 15218), a corporation of the Commonwealth—persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, (1) from points in the Counties of Beaver, Butler, Fayette, Washington and Westmoreland, to points in Pennsylvania, and return; (2) from points in the County of Allegheny, to points in Pennsylvania, excluding points in said county, and return. *Attorney:* David M. O'Boyle, 1450 Two Chatham Center, Pittsburgh, PA 15219.

**Applications 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 each application.**

**A-00105054, F.2, Am-B. Byers Taxi Service, Inc.** (115 Franklin Avenue, Vandergrift, Westmoreland County,

PA 15690), a corporation of the Commonwealth—temporary authority—to transport, as a common carrier, by motor vehicle, persons in paratransit service, from points in the Cities of Arnold, Lower Burrell and New Kensington, to points in Pennsylvania, and return. *Attorney:* John A. Pillar, 680 Washington Road, Suite B101, Pittsburgh, PA 15228-1925.

**A-00105054, F.2, Am-B. Byers Taxi Service, Inc.** (115 Franklin Avenue, Vandergrift, Westmoreland County, PA 15690)—inter alia—persons, in paratransit service, between points in the Boroughs of Vandergrift, East Vandergrift and West Leechburg and the Townships of Allegheny, Washington and Upper Burrell, Westmoreland County; the Boroughs of Leechburg, North Apollo and Apollo and the Townships of Kiskiminetas, Parks, Gilpin, Burrell, Bethel and South Bend, Armstrong County and to points in the Counties of Allegheny, Armstrong, Butler, Indiana and Westmoreland, and return: *So As To Permit* the transportation of persons in paratransit service between points in the Cities of New Kensington, Arnold and Lower Burrell, Westmoreland County, and from points in said cities to points in Pennsylvania, and return. *Attorney:* John A. Pillar, 680 Washington Road, Suite B101, Pittsburgh, PA 15228.

**Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods as described under each application.**

**A-00112271, F.2. Glamour Moving Company, Inc.** (1285 Landing Lane, Westminster, MD 21157)—household goods in use, from points in the Counties of Lancaster, Franklin, Adams and York, to points in Pennsylvania.

**A-00122753, F.2. Lexington Moving and Storage Co.** (105 Lexington Road, York, York County, PA 17402)—household goods in use, from points in the County of York, to points in Pennsylvania, and vice versa.

**A-00122822. Roger L. Most, Sr. t/a Mountain Movers** (664 South Edgewood Avenue, Suite 300, Somerset, Somerset County, PA 15501)—household goods in use, from points in the County of Somerset, to points in Pennsylvania, and vice versa. *Attorney:* James M. Jacobs, Jr., 166 East Union Street, Somerset, PA 15501.

**Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods by transfer of rights as described under each application.**

**A-00122823. Jeremy Caldwell** (266 East Catherine Street, Somerset, Somerset County, PA 15501)—household goods in use, between points in the County of Somerset; which is to be a transfer of the rights authorized under the certificate issued at A-00106164 to Ralph L. Lishia t/a Somerset Movers, subject to the same limitations and conditions. *Attorney:* Matthew R. Zatko, 202 East Union Street, Somerset, PA 15501.

**Applications of the following for the approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under each application.**

**A-00094980. Kenneth J. Leahey** (5349 Portage Street, Lilly, Cambria County, PA 15938)—discontinuance of service—household goods and office furnishings, in use, from points in the Borough of Lilly, Cambria County, and within an airline distance of 5 statute miles of the limits of the said borough to points within an airline distance of 15 statute miles of the limits of said borough, and vice versa.

**A-00119467. Anthony Aspromonte t/d/b/a ACA Limousine Service** (1252 Echo Lake Road, Tobyhanna, Monroe County, PA 18466)—certificate of public convenience for the discontinuance of the right to transport, as a common carrier by motor vehicle: Persons in limousine service, between points in the Counties of Monroe, Pike and Carbon, and from points in said counties, to points in Pennsylvania, and return.

**A-00103670, F.3, Am-C. S & S Transit, Inc.** (400 Eden Park Boulevard, McKeesport, Allegheny County, PA 15132), a corporation of the Commonwealth—certificate of public convenience for the discontinuance of the right to transport, as a common carrier by motor vehicle: Persons in paratransit service, from points in the Cities of New Kensington, Arnold and Lower Burrell, Westmoreland County, to points in the Counties of Westmoreland and Allegheny, and return; subject to the following conditions: That no right, power, or privilege is granted to provide service to or from the Greater Pittsburgh International Airport.

### Complaint

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. System of Services, Inc. t/a SOS Taxi & Fantasy Limo; Doc. No. A-00108826C0601, Fs. 1, 2, 3, 4 and 5*

### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That System of Services, Inc., t/a SOS Taxi & Fantasy Limo, respondent, maintains its principal place of business at 28 Georgetown Lane, Beaver, PA 15009.

2. That respondent was issued a certificate of public convenience by this Commission on November 2, 1990, at Application Docket No. A-00108826 for call or demand authority, on March 13, 1990, at Application Docket No. A-00108826, F2 for airport transfer authority, on July 27, 1993, at Application Docket No. A-00108826, F3 for property authority, on June 30, 1993, at Application Docket No. A-00108826, F4 for paratransit authority, and on December 13, 2000, at Application Docket No. A-00108826, F5 for limousine authority.

3. That respondent abandoned or discontinued service without having first submitted a letter to this Commission containing a statement that the service is no longer

being rendered. Respondent has not reported intrastate revenue for the years 2004 and 2005.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, failed to comply with the January 11, 1999 Commission Decision at P-981458 and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00108826, Fs. 1, 2, 3, 4 and 5.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

### VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_  
Wendy J. Keezel, Chief of Enforcement

### NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1168.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1048. Filed for public inspection June 9, 2006, 9:00 a.m.]

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### Telecommunications Services

**A-310814F0002AMA and A-310814F0002AMB. US LEC of Pennsylvania, Inc.** Application of US LEC of Pennsylvania, Inc. for approval to offer, render, furnish or supply competitive local exchange carrier services to the public in the service territories of North Pittsburgh Telephone Company and Alltel Pennsylvania, Inc.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before June 26, 2006. 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:* US LEC of Pennsylvania, Inc.

*Through and By Counsel:* Daniel P. Delaney, Esquire, Kirkpatrick and Lockhart, LLP, 17 North Second Street, 18th Floor, Harrisburg, PA 17101-1507

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-1049. Filed for public inspection June 9, 2006, 9:00 a.m.]

# PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

## Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

July 26, 2006	Patty L. Schumacher (Reduction of Service Credit for Unpaid Leave)	1 p.m.
October 18, 2006	Lil Koszowski (Out-of-State Service)	1 p.m.

Persons with a disability who wish to attend the listed hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director, at (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY,  
*Executive Director*

[Pa.B. Doc. No. 06-1050. Filed for public inspection June 9, 2006, 9:00 a.m.]

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# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

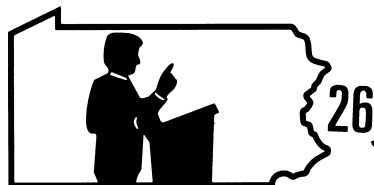
30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
PA Department of Community and Economic Development  
374 Forum Building  
Harrisburg, PA 17120  
800-280-3801 or (717) 783-5700

### Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
Location: Harrisburg, Pa.  
Duration: 12/1/93-12/30/93  
Contact: Procurement Division  
787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:  
Vendor Services Section  
717-787-2199 or 717-787-4705

### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at [www.patreasury.org](http://www.patreasury.org).

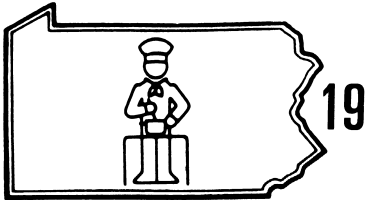
Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania Treasury Department  
 201 Finance Building  
 Harrisburg, PA 17120  
 Phone: (717) 787-2990 or 1-800-252-4700  
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,  
*State Treasurer*

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## SERVICES

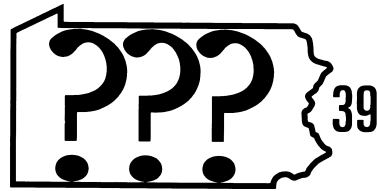
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**Food**

**CN00021172** Perishable Foods - Fish and Fish Products. Prospective vendors must register with the Integrated Enterprise System (IES) at [www.vendor.registration.state.pa.us](http://www.vendor.registration.state.pa.us). DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401  
**Duration:** Deliveries are for the time period of July, August, and September, 2006. Bid opening date/time is 6/5/06 at 2 p.m.  
**Contact:** Debbie Jones, 610-313-1025



**Miscellaneous**

**ADV-284** Indiana University of Pennsylvania (IUP), a member of the Pennsylvania State System of Higher Education, is seeking bids to furnish and install digital payment multi-space parking stations for the main campus, Indiana, PA 15705. Requests for a bid package should be made in writing, referencing Advertisement #ADV-278 and directed to Robert L. Bowser, Jr. C.P.M., Director of Purchasing Services, IUP, 650 South 13th Street, Indiana, PA 15705, Fax (724) 357-2670, Telephone (724) 357-3077, or e-mail: [rbowser@iup.edu](mailto:rbowser@iup.edu). Requests for a bid package will be accepted until Tuesday, May 30, 2006. Bid packages will be mailed to vendors after May 30, 2006. The University encourages responses from small and disadvantaged, minority, and women-owned firms.

**Department:** State System of Higher Education  
**Location:** Indiana University of Pennsylvania, Robert Shaw Building, 650 South 13th Street, Indiana, PA 15705  
**Contact:** Robert L. Bowser, Jr., C.P.M., 724-357-3077

[Pa.B. Doc. No. 06-1051. Filed for public inspection June 9, 2006, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,  
*Secretary*





# Title 58—RECREATION

## PENNSYLVANIA GAMING CONTROL BOARD [58 PA. CODE CHS. 401, 405, 421, 441, 494 AND 499]

### Temporary Regulations; Licensing

Under the Pennsylvania Gaming Control Board's (Board) Resolution Nos. 2005-3 REG, 2005-4 REG, 2005-5 REG and 2006-4 REG, the Board has the authority to amend the temporary regulations adopted on June 16, 2005, July 21, 2005, September 28, 2005, and March 16, 2006, as it deems necessary in accordance with the purpose of the act of July 5, 2004 (P. L. 572, No. 71) (Act 71) and to further the intent of Act 71. Accordingly, the Board has decided to make editorial changes to the temporary regulations, dated June 16, 2005, July 21, 2005, September 28, 2005, and March 16, 2006, as deposited with the Legislative Reference Bureau (Bureau) and published at 35 Pa.B. 4045 (July 16, 2005), 35 Pa.B. 4543 (August 6, 2005), 35 Pa.B. 6407 (November 19, 2005) and 36 Pa.B. 1578 (April 1, 2006).

Therefore, the Board has deposited with the Bureau amendments to §§ 401.4, 401.5, 405.2, 421.1, 421.3, 441.4, 494.1 and 499.1. The amendments are effective as of May 19, 2006.

The temporary regulations of the Board in Chapters 401, 405, 421, 441, 494 and 499 are amended by amending §§ 401.4, 401.5, 405.2, 421.1, 421.3, 441.4, 494.1 and 499.1 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

#### Order

The Board, acting under the authorizing statute, orders that:

(a) The Board, acting under the authority of Act 71, adopts the amendments to the temporary regulations adopted by resolution at the May 19, 2006, public meeting. The amendments to the temporary regulations pertain to definitions, the Bureau of Investigations and Enforcement, general licensing requirements, slot machine license application requirements and hearings and appeals.

(b) The following temporary regulations of the Board, 58 Pa. Code, Chapters 401, 405, 421, 441, 494 and 499, are amended: §§ 401.4, 401.5, 405.2, 421.1, 421.3, 441.4, 494.1 and 499.1 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(c) The amendments are effective May 19, 2006.

(d) The amendments to the temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The Chairperson of the Board shall certify this order and deposit the amendments to the temporary regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,  
*Chairperson*

**Fiscal Note:** 125-23. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART VII. GAMING CONTROL BOARD

#### Subpart A. GENERAL PROVISIONS

#### CHAPTER 401. PRELIMINARY PROVISIONS

#### § 401.4. Definitions.

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

\* \* \* \* \*

*Gaming area* or *gaming floor*—Any portion of a licensed facility where slot machines have been installed for use or play.

\* \* \* \* \*

#### § 401.5. Jurisdiction.

The Board will have exclusive jurisdiction over all matters within the scope of its powers under the act. The Board may take action to enforce its policies, rules and regulations. The Board may, in its discretion and when permitted by law, delegate its authority to perform any of its functions under the act.

#### CHAPTER 405. BUREAU OF INVESTIGATIONS AND ENFORCEMENT

#### § 405.2. Information.

(a) An applicant, licensee, permittee or registrant shall provide all information, data and documents requested by the Bureau of Investigations and Enforcement (Bureau) under section 1517(a) of the act (relating to enforcement).

(b) The Director of the Bureau, the Chief Enforcement Counsel, and their designees, shall have the power and authority to administer oaths and affirmations for the purpose of obtaining voluntary sworn statements with regard to any matter or thing which may properly fall within the jurisdiction of the Board. Additionally, any person so designated shall have the power and authority to obtain by subpoena the sworn statement of a person deemed to have information relevant to an investigation that the Board is authorized to conduct. Designation pursuant to this section will be made in writing, filed with the Clerk of the Board and remain in effect until revoked.

\* \* \* \* \*

#### Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING

#### CHAPTER 421. GENERAL PROVISIONS

#### § 421.1. General requirements.

\* \* \* \* \*

(g) An individual regulated by this part has a duty to inform the Board of any changes in the information supplied to the Board in or in conjunction with the original application.

#### § 421.3. Disqualification criteria.

An application for, issuance or renewal of a license, permit, certification or registration may be denied, suspended or revoked to or from a person or applicant who has failed to prove to the satisfaction of the Board that the person or applicant or any of the persons required to be qualified, are in fact qualified in accordance with the act and with this part, who has violated the act or this

part, who is disqualified under the criteria in the act, who has materially departed from representation made in the application for licensure or renewal, or who has failed to comply with applicable Federal or state laws or regulations. A suspension, nonrenewal, denial or revocation of a license, permit, certification or registration or application thereof may be made for a sufficient cause consistent with the act and the public interest.

**Subpart C. SLOT MACHINE LICENSING**

**CHAPTER 441. SLOT MACHINE LICENSING**

**§ 441.4. Slot machine license application.**

To be eligible for a slot machine license, an applicant shall submit an application which includes the following:

\* \* \* \* \*

(25) If a temporary facility is to be licensed, a plan for how the licensee will transition to a permanent facility, including a date for completion of the permanent facility. A permanent facility shall be the facility proposed by the applicant, which is designated, identified and made part of the evidentiary record by the applicant at the applicant's licensing hearing. Any modifications to the proposed permanent facility following the applicant's licensing hearing shall be approved by the Board.

\* \* \* \* \*

**Subpart H. PRACTICE AND PROCEDURE**

**CHAPTER 494. HEARING PROCEDURE**

**§ 494.1. Generally.**

(a) A hearing calendar of all proceedings set for hearing will be maintained by the clerk to the Board. All matters required to be determined upon the record will be placed on the hearing calendar, and will be in their order of assignment as far as practicable. All matters will be heard in Harrisburg, unless a different site shall be determined by the Board. The Board, in its discretion with or without motion, for cause may at any time with due notice to the participants advance or postpone any proceeding on the hearing calendar.

\* \* \* \* \*

(c) In oral and documentary hearings, neither the Board nor the presiding officer will be bound by technical rules of evidence, and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross-examination will be permitted at all oral hearings. If a party does not testify in his own behalf, he may be called and examined as if under cross-examination.

\* \* \* \* \*

**CHAPTER 499. REPRESENTATION BEFORE THE BOARD**

**§ 499.1. Appearance in person.**

(a) An individual who is a party in a proceeding before the Board may represent himself before the Board.

\* \* \* \* \*

[Pa.B. Doc. No. 06-1052. Filed for public inspection June 9, 2006, 9:00 a.m.]

**PENNSYLVANIA GAMING CONTROL BOARD  
[58 PA. CODE CH. 435]**

**Temporary Regulations; Employee Credentialing**

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Chapter 435, entitled Employees, is amended by adding §§ 435.6—435.10 to Subpart B, entitled licensing, registering, certifying and permitting.

*Purpose and Background*

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To promulgate the temporary regulations in accordance with customary rulemaking procedure, the Board published draft regulations on its website and a 10-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations may not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

*Financial Impact*

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities.

The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified in Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board.

It is anticipated that expenses of the Board and associated activities will be reimbursed by the applicants and gaming entities as previously specified. The Board has no financial impact on the State budget.

*Statutory Authority*

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

*Regulatory Review*

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

### Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 10-day public comment period was held prior to the adoption of the temporary regulations.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

### Order

The Board, acting under the authorizing statute, orders that:

(a) The Board, acting under the authority of the Act 71, adopts as its final-form temporary regulations the draft regulations as amended by resolution at the May 19, 2006, public meeting. The temporary regulations pertain to employee credentialing.

(b) The following temporary regulations of the Board, 58 Pa. Code Chapter 435, are amended by adding §§ 435.6—435.10 to read as set forth in Annex A.

(c) The temporary regulations are effective May 19, 2006.

(d) The temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

(f) The Chairperson of the Board shall certify this order and deposit the regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,  
Chairperson

**Fiscal Note:** 125-26. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART VII. GAMING CONTROL BOARD

#### Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING

#### CHAPTER 435. EMPLOYEES

#### § 435.6. Credentials generally.

(a) A credential issued to key employee qualifiers, key employees, gaming employees, nongaming employee registrants and state employees subject to § 435.7(c), must include the following information pertaining to the employee:

(1) The name, address, date of birth, sex, height, weight, hair color and eye color of the licensee, permittee or registrant.

(2) A photograph of the face of the individual to whom the credential has been issued which meets the standards of the Commonwealth Photograph Imaging Network.

(b) The credential must also contain the following information:

(1) The inscription "Pennsylvania Gaming Control Board."

(2) The seal of the Commonwealth.

(3) A license, permit or registration number.

(4) The type of license, permit or registration.

(5) An expiration date.

(6) The signature of the employee.

(7) Other security features as determined by the Board.

#### § 435.7. Employee credentials.

(a) Each key employee, gaming employee and nongaming employee registrant shall carry, on his person, his Board-issued credential at all times while engaged in the performance of his duties on the premises of a licensed facility.

(b) Each key employee qualifier whose duties are required to be performed at a licensed facility in excess of 12 days in a 12-month period shall obtain a Board-issued credential while engaged in the performance of his duties on the premises of a licensed facility.

(c) Each State employee, whose duties require the employee's presence at a licensed facility more frequently than once a month, shall obtain a credential from the Board and carry, on his person, the Board-issued credential at all times while engaged in the performance of the employee's duties on the premises of a licensed facility.

(d) Except as provided in § 435.8 (relating to emergency credentials), slot machine licensees are prohibited from allowing a key employee qualifier, key employee, gaming employee or nongaming employee registrant to perform his duties on the premises of a licensed facility unless the employee has his Board-issued credentials.

(e) Notwithstanding subsections (a) and (b), the Board may, upon written request by a slot machine licensee and upon a showing of good cause, exempt certain positions, titles or persons from the requirements of this section.

(f) Slot machine licensees shall be required to utilize a secure website for submission of current employee status reports pursuant to a schedule prescribed by the Board.

#### § 435.8. Emergency credentials.

(a) An emergency credential that is in a form approved by the Board may be issued by the security department of a slot machine licensee to a key employee qualifier, key employee, gaming employee or nongaming employee who does not have the credential on his person, or whose credential has been stolen, lost or destroyed, to enable the employee to perform his duties at the licensed facility, if the security department of the slot machine licensee performs all of the following prior to issuing the emergency credential:

(1) Verifies that the employee is listed in the slot machine licensee's current employee status report.

(2) Verifies that the employee holds a valid license, permit or registration.

(3) Confirms the employment and licensure, permit or registration information of the employee with the supervisor of the employee.

(4) Verifies that fewer than 12 temporary credentials have been issued to the particular employee in the past 12 months.

(5) Maintains, in writing, an emergency credentials log containing the following information:

(i) The name, license, permit or registration number of the employee to whom the emergency credential was issued.

(ii) The date and time that the emergency credential was issued.

(iii) The name and license, permit or registration number of the slot machine licensee security department employee issuing the emergency credential.

(iv) The badge number of the emergency credential that was issued.

(6) Provides to the Bureau a copy of the emergency credentials log by December 1 of each year.

(7) Issues emergency credentials for the current year and returns the previous year's emergency credentials to the Board within 30 days of the next calendar year. The Board will impose on the licensee a replacement fee for any unreturned badges.

(b) An emergency credential issued under subsection (a) must be in a form approved by the Board and contain the following information:

(1) A conspicuous statement printed on the face thereof which provides that the credential is void 72 hours after the time of its issuance.

(2) A sequential badge number printed on the face of the credential.

(c) The emergency credential must comply with the following requirements:

(1) Be valid for a time period not to exceed 72 hours.

(2) Be sequentially numbered.

(3) Be stored in the offices of the security department and distributed by that department in accordance with the slot machine licensee's procedures submitted to and approved by the Board.

#### **§ 435.9. Temporary credential.**

(a) A temporary credential that has been approved by the Board may be issued by the Board to a key employee qualifier or a key employee whose investigation for licensure by the Board is pending but whose presence is necessary in the licensed facility.

(b) A temporary credential issued under this section must be in a form approved by the Board and contain the following information:

(1) The name and license number of the employee to whom it was issued.

(2) A conspicuous statement printed on the face thereof which provides that the credential is a temporary credential and is void 60 days after the date of its issuance or a time period otherwise authorized by the Board.

(3) The date it was issued.

(c) Ten days prior to the expiration of the temporary credential, the key employee qualifier or key employee may submit a renewal request to the Board. If the renewal request is approved, the temporary credential shall be valid for an additional 30 day period. The key employee qualifier or key employee may continue to renew a temporary credential for a maximum of 6 months.

#### **§ 435.10. Loss or destruction of credential.**

(a) Any holder of a Board-issued credential shall promptly report the theft, loss or destruction of a Board-issued credential to the Board.

(b) As soon as possible following the loss or destruction of a credential, the person to whom the credential was

originally issued shall immediately notify the security department of the slot machine licensee.

(c) The security department of the slot machine licensee shall notify the Board in writing in the manner and form prescribed by the Board and may issue an emergency credential in accordance with § 435.8 (relating to emergency credentials).

[Pa.B. Doc. No. 06-1053. Filed for public inspection June 9, 2006, 9:00 a.m.]

## **PENNSYLVANIA GAMING CONTROL BOARD**

### **[58 PA. CODE CH. 503]**

#### **Temporary Regulations; Self Exclusion**

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Chapter 503, entitled self exclusion, is added to Subpart I, entitled compulsive and problem gambling.

#### *Purpose and Background*

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To invite public input, the Board published draft regulations on the Board's website and 10-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

#### *Financial Impact*

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities.

The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified in Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board.

It is anticipated that expenses of the Board and associated activities will be reimbursed by the applicants

and gaming entities as previously specified. The Board has no financial impact on the State budget.

*Statutory Authority*

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

*Regulatory Review*

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

*Findings*

The Board finds that:

- (1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.
- (2) A 10-day public comment period was held prior to the adoption of the temporary regulations.
- (3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

*Order*

The Board, acting under the authorizing statute, orders that:

- (a) The Board, acting under the authority of the Act 71, adopts as its final-form temporary regulations the draft regulations as amended by resolution at the May 19, 2006, public meeting. The temporary regulations pertain to self exclusion.
- (b) The following temporary regulations of the Board, 58 Pa. Code Chapter 503, are added: §§ 503.1—503.6 to read as set forth in Annex A.
- (c) The temporary regulations are effective May 19, 2006.
- (d) The temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.
- (e) The temporary regulations will be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.
- (f) The Chairperson of the Board shall certify this order and deposit the regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,  
*Chairperson*

**Fiscal Note:** 125-25. No fiscal impact; (8) recommends adoption.

**Annex A**  
**TITLE 58. RECREATION**  
**PART VII. GAMING CONTROL BOARD**  
**Subpart I. COMPULSIVE AND PROBLEM GAMBLING**  
**CHAPTER 503. SELF EXCLUSION**

Sec.	
503.1.	Definitions.
503.2.	Scope of self exclusion.
503.3.	Request for self exclusion.
503.4.	Self-exclusion list.
503.5.	Duty of slot machine licensee.
503.6.	Removal from self-exclusion list.

**§ 503.1. Definitions.**

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

*Fully executed gaming transaction*—Any activity involving a slot machine or associated equipment which occurs on the gaming floor of a licensed gaming facility and which results in an individual obtaining any money or thing of value from, or being owed any money or thing of value by, a slot machine licensee.

*Self-excluded person*—Any person whose name is included, at the person's own request, on the self-exclusion list maintained by the Board.

*Self-exclusion list*—A list of names of persons who, under this chapter, have voluntarily agreed to be excluded from all gaming activities and to be prohibited from collecting any winnings, recovering any losses or accepting complimentary gifts or services or any other thing of value at all licensed facilities.

*Winnings*—Any money or thing of value received from, or being owed by the licensed gaming entity as a result of a fully executed gaming transaction.

**§ 503.2. Scope of self exclusion.**

Self exclusion under this chapter only applies to the gaming floor of all licensed gaming facilities.

**§ 503.3. Request for self exclusion.**

- (a) Any person may have the person's name placed on the self-exclusion list by submitting a request for self exclusion in the form and manner required by the Board.
- (b) Any person requesting placement on the self-exclusion list shall submit, in person, a completed request for self exclusion as required by subsection (c).
- (c) The request shall be presented to the Bureau. The Board may designate other locations for submission of completed requests for self exclusion in accordance with this chapter.
- (d) A request for self exclusion must include the following identifying information:
  - (1) Name, including any aliases or nicknames.
  - (2) Date of birth.
  - (3) Address of current residence.
  - (4) Telephone number of current residence.
  - (5) Social Security number, when voluntarily provided in accordance with section 7 of the Privacy Act of 1974 (5 U.S.C. § 552a).

(6) Physical description of the person, including height, weight, gender, hair color, eye color and any other physical characteristic that may assist in the identification of the person.

(7) Government issued photo identification such as driver's license or passport.

(e) The information provided in subsection (d) shall be updated by the self-excluded person within 30 days of the change.

(f) The length of self exclusion requested by the person may be one of the following:

- (1) One year (12 months).
- (2) Five years.
- (3) Lifetime.

(g) A request for self exclusion must include a signed release which waives and forever discharges the Commonwealth, the Board, and all licensed gaming entities from any liability relating to any self-excluded person or to any other party in any judicial proceeding for any harm, monetary or otherwise, which may arise as a result of one or more of the following:

(1) The failure of a licensed gaming entity to withhold gaming privileges from or restore gaming privileges to a self-excluded person.

(2) Otherwise permitting or not permitting a self-excluded person to engage in gaming activity in a licensed facility while on the list of self-excluded persons.

(3) Disclosure by a licensed gaming entity of information regarding a self-excluded person to any person or group who is not affiliated with the licensed gaming entity.

(4) Disclosure of information regarding a self-excluded person by the Board.

(h) Any person submitting a request for self-exclusion shall sign the following statement:

"I am voluntarily requesting exclusion from all gaming activities at all licensed gaming facilities in the Commonwealth of Pennsylvania because I am a problem gambler. I certify that the information I have provided above is true and accurate, and I have read and understand and agree to the release included with this request for self exclusion. I am aware that my signature authorizes the Pennsylvania Gaming Control Board to direct all slot machine licensees to restrict my gaming activities in accordance with this request, and unless I have requested to be excluded for life, until such time as the Board removes my name from the self-exclusion list in response to my written request to terminate my voluntary self exclusion. I am aware and agree that during any period of self exclusion, I shall not collect any winnings or recover any losses resulting from any gaming activity at all licensed slot facilities, and any money or thing of value obtained by me from, or owed to me by, a slot machine licensee as a result of wagers made by me while on the self-exclusion list shall be subject to remittance to the Board."

(i) Self exclusions for 1 or 5 years remain in effect until the self-excluded person requests removal from the Board's self-exclusion list under § 503.6 (relating to removal from self-exclusion list).

(j) Any person submitting a self-exclusion request shall be required to present a government issued photo identification containing the person's signature and photograph.

(k) Any person requesting self exclusion under this chapter shall be required to have a photograph taken and be fingerprinted by the Board, or agent thereof, upon the Board's acceptance of the request to be on the list.

#### § 503.4. Self-exclusion list.

(a) The Board will maintain the official self-exclusion list and notify each slot machine licensee of any addition to or deletion from the list by first class mail or by transmitting a notice by electronic means directly to each slot machine licensee.

(b) The notice provided by the Board will include the following information concerning any person whose name shall be added to the self-exclusion list:

(1) Name, including any aliases or nicknames.

(2) Date of birth.

(3) Address of current residence.

(4) Telephone number of current residence.

(5) Social security number, where voluntarily provided by the person requesting self exclusion under section 7 of the Privacy Act of 1974 (5 U.S.C. § 552a).

(6) Physical description of the person, including height, weight, gender, hair color, eye color and any other physical characteristic that may assist in the identification of the person.

(7) Copy of the photograph taken by the Board or Bureau under § 503.3(k) (relating to request for self exclusion).

(c) The notice provided by the Board will include the name and date of birth of any person whose name has been removed from the self-exclusion list.

(d) Each slot machine licensee shall maintain its own copy of the self-exclusion list and establish procedures to ensure that its copy of the self-exclusion list is updated and that all appropriate employees and agents of the slot machine licensee are notified of any addition to or deletion from the list within 5 business days after the day notice is mailed to each slot machine licensee or transmitted electronically under subsection (a).

(e) Information furnished to or obtained by the Board under this chapter will be deemed confidential and will not be disclosed except in accordance with this chapter.

(f) Slot machine licensees, employees or agents thereof may not disclose the name of, or any information about, any person who has requested self exclusion to anyone other than employees and agents of the slot machine licensee whose duties and functions require access to the information. Notwithstanding the foregoing, a slot machine licensee may disclose the name of and information about a self-excluded person to appropriate employees of other slot machine licensees in this Commonwealth or affiliated gaming entities in other jurisdictions from disclosing the identity of persons self excluded to other affiliated gaming entities in this Commonwealth or other jurisdiction for the limited purpose of assisting in the proper administration of responsible gaming programs operated by affiliated licensed gaming entities.

(g) A self-excluded person may not collect in any manner or in any proceeding any winnings or recover any losses arising as a result of any gaming activity for the entire period of time that the person is on the Board's self-exclusion list.

(h) Any winnings incurred by a self-excluded person shall be remitted to the Board and deposited into the Compulsive and Problem Gambling Treatment Fund.

(i) For the purposes of this section, any winnings issued to, found on or about, or redeemed by a self-excluded person shall be presumed to constitute winnings subject to remittance to the Board.

#### § 503.5. Duty of slot machine licensee.

(a) Each slot machine licensee shall establish procedures that are designed, to the greatest extent practicable, to:

(1) Train appropriate employees of the slot machine licensee to identify a self-excluded person when present in a licensed gaming facility and, upon identification, notify the following persons:

(i) Employees of the slot machine licensee whose duties include the identification and removal of self-excluded persons.

(ii) Designated representatives of the Board.

(2) Refuse wagers from and deny any gaming privileges to any self-excluded person.

(3) Deny check cashing privileges, player club membership, complimentary goods and services, junket participation and other similar privileges and benefits to any self-excluded person.

(4) Ensure that self-excluded persons do not receive, either from the slot machine licensee or any agent thereof, junket solicitations, targeted mailings, telemarketing promotions, player club materials or other promotional materials relating to gaming activities at its licensed facility.

(5) Comply with § 503.4(d) (relating to self-exclusion list).

(6) Establish an employee training program consistent with section 1516 of the act (relating to list of persons self excluded from gaming activities) and § 501.4 (relating to employee training program), which also include:

(i) Procedures for the dissemination of written materials to patrons explaining the self-exclusion program.

(ii) Procedures to prevent any person placed on the self-exclusion list from having access to or from receiving complimentary services and discounts, or other like benefits.

(b) Each slot machine licensee shall submit a copy of its procedures established under subsection (a) to the Board 30 days prior to initiation of gaming activities at the licensed facility. Any amendments to these procedures shall be submitted to the Board at least 3 business days prior to their implementation. If the Board does not object to the procedures or amendments thereto, the procedures or amendments shall be deemed to be approved.

(c) The list of self-excluded persons shall be considered confidential, and any distribution of the list to an unauthorized source constitutes a violation of the act and subjects the disclosing party to sanctions the Board deems appropriate.

(d) Under section 1516 of the act and § 501.6(4) and (5) (relating to liability), licensed gaming entities and employees thereof may not be liable for damages in any civil action, which is based on the following:

(1) Failure to withhold gaming privileges from a self-excluded person.

(2) Permitting a self-excluded person to gamble.

(3) Disclosing the identity of a self-excluded person to someone other than those authorized by this chapter.

#### **§ 503.6. Removal from self-exclusion list.**

(a) Any self-excluded person may, upon the expiration of the period of self exclusion, request removal of the person's name from the self-exclusion list by submitting, in person, a completed request for removal as is required by subsection (b). The request shall be delivered to the Board. Any person submitting a request for removal from the list shall be required to present valid government issued photo identification credentials containing the person's signature and a photograph.

(b) A request for removal from the self-exclusion list must be in a form prescribed by the Board. The form must include:

(i) The identifying information specified in § 503.3(d)(1)—(7) (relating to request for self exclusion).

(ii) The signature of the person requesting removal from the self-exclusion list indicating acknowledgment of the following statement:

"I certify that the information that I have provided above is true and accurate. I am aware that my signature below constitutes a revocation of my previous request for self exclusion, and I authorize the Board to permit all slot machine licensees of the Commonwealth of Pennsylvania to reinstate my gaming privileges at licensed slot facilities."

(c) Within 5 business days, the Board will delete the name of the person requesting removal from the self-exclusion list and notify each slot machine licensee of the removal.

[Pa.B. Doc. No. 06-1054. Filed for public inspection June 9, 2006, 9:00 a.m.]

## **PENNSYLVANIA GAMING CONTROL BOARD**

### **[58 PA. CODE CH. 511]**

#### **Temporary Regulations; Persons Required to be Excluded**

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Chapter 511, entitled persons required to be excluded, is added to Subpart J, entitled exclusion of persons.

#### *Purpose and Background*

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. To invite public input, the Board published draft regulations on the Board's website and a 10-day public comment period was provided.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

#### *Financial Impact*

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities.

The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities



as specified in Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board.

It is anticipated that expenses of the Board and associated activities will be reimbursed by the applicants and gaming entities as previously specified. The Board has no financial impact on the State budget.

#### *Statutory Authority*

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

#### *Regulatory Review*

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires 2 years from the effective date of Act 71.

#### *Findings*

The Board finds that:

(1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 10-day public comment period was held prior to the adoption of the temporary regulations.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

#### *Order*

The Board, acting under the authorizing statute, orders that:

(a) The Board, acting under the authority of the Act 71, adopts as its final-form temporary regulations the draft regulations as amended by resolution at the May 19, 2006, public meeting. The temporary regulations pertain to persons required to be excluded.

(b) The following temporary regulations of the Board, 58 Pa. Code, are amended by adding §§ 511.1—511.10 to read as set forth in Annex A.

(c) The temporary regulations are effective May 19, 2006.

(d) The temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

(f) The Chairperson of the Board shall certify this order and deposit the regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,  
*Chairperson*

**Fiscal Note:** 125-24. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 58. RECREATION

#### PART VII. GAMING CONTROL BOARD

##### Subpart J. EXCLUSION OF PERSONS

#### CHAPTER 511. PERSONS REQUIRED TO BE EXCLUDED

Sec.	
511.1.	Definitions.
511.2.	Maintenance and distribution of the list.
511.3.	Criteria for exclusion.
511.4.	Duties of the Bureau of Investigations and Enforcement.
511.5.	Procedure for entry of names onto the exclusion list.
511.6.	Application for preliminary placement of a candidate on the exclusion list.
511.7.	Final order of exclusion.
511.8.	Information contained on the exclusion list.
511.9.	Duty of slot machine licensee.
511.10.	Petition to remove name from exclusion list.

#### § 511.1. Definitions.

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

*Candidate*—A person whose name is included in a petition to be placed on the exclusion list under section 1514 of the act (relating to regulation requiring exclusion of certain persons) and this chapter.

*Career or professional offender*—Any person, who for the purpose of economic gain, engages in activities that are deemed criminal violations or contrary to the public policy of the Commonwealth and the act.

#### *Cheat*—

(i) To alter, without authorization, the elements of chance, method of selection or criteria which determine:

(A) The result of a slot machine game.

(B) The amount or frequency of payment in a slot machine game.

(C) The value of a wagering instrument.

(D) The value of a wagering credit.

(ii) The term does not include altering for required maintenance and repair.

(iii) The term includes an act or acts in any jurisdiction that would constitute any offense under section 1518 of the act (relating to prohibited acts and penalties).

*Excluded person*—A person who has been placed upon the exclusion list by preliminary or final order of the Board and who, under sections 1514 and 1515 of the act (relating to regulation requiring exclusion of certain persons; and repeat offenders excludable from licensed gaming facility) and this chapter, is required to be excluded or ejected from a licensed gaming facility.

*Exclusion list*—A list of names of persons who, under this chapter and sections 1514 and 1515 of the act, are required to be excluded or ejected from a licensed gaming facility, upon order of the Board after investigation by the Board or Bureau.

#### § 511.2. Maintenance and distribution of the list.

(a) The Board will maintain a list of persons to be excluded or ejected from a licensed facility.

(b) The list will be open to public inspection at the Board's central office during normal business hours and will be distributed to every slot machine licensee within this Commonwealth, who shall acknowledge receipt thereof in writing or electronically.

(c) Each slot machine licensee shall have the responsibility to distribute copies of the list to its employees. Any additions, deletions or other updates to the list shall be distributed by each slot machine licensee to its employees within 2 business days of the slot machine licensee's receipt of the updates from the Board.

**§ 511.3. Criteria for exclusion.**

(a) The exclusion list may include a person who meets any of the following criteria:

(1) A career or professional offender whose presence in a licensed facility would, in the opinion of the Board, be inimical to the interest of the Commonwealth or a licensed gaming entity, or both.

(2) An associate of a career or professional offender whose presence in a licensed facility would be inimical to the interest of the Commonwealth or a licensed gaming entity, or both.

(3) A person who has been convicted of a criminal offense under the laws of any state, or of the United States, which is punishable by more than 1 year in prison, or who has been convicted of any crime or offense involving moral turpitude, and whose presence in a licensed facility would be inimical to the interest of the Commonwealth or a licensed gaming entity, or both.

(4) A person whose presence in a licensed facility would be inimical to the interest of the Commonwealth or licensed gaming therein, including:

(i) Cheats.

(ii) Persons whose gaming privileges, permits, licenses or other approvals have been suspended, revoked or denied.

(iii) Persons who pose a threat to the safety of the patrons or employees of a slot machine licensee.

(iv) Persons with a documented history of conduct involving the undue disruption of the gaming operations of slot machine licensees.

(v) Persons subject to an order of a court of competent jurisdiction in this Commonwealth excluding those persons from all licensed facilities.

(vi) Persons with pending charges or indictments for a gaming or gambling crime or a crime related to the integrity of gaming operations.

(vii) Persons who have been convicted of a gaming or gambling crime or crime related to the integrity of gaming operations.

(viii) Persons who have performed any act or have a notorious or unsavory reputation that would adversely affect public confidence and trust in gaming, including, being identified with criminal activities in published reports of various Federal and state legislative and executive bodies that have inquired into criminal or organized criminal activities.

(b) For purposes of subsection (a), a person's presence may be considered "inimical to the interest of the Commonwealth or of licensed gaming therein" if known attributes of the person's character and background meet one or more of the following criteria:

(1) Are incompatible with the maintenance of public confidence and trust in the credibility, integrity and stability of licensed slot operation.

(2) May reasonably be expected to impair the public perception of, and confidence in, the strict regulatory process created by the act.

(3) Create or enhance a risk of the fact or appearance of unsuitable, unfair or illegal practices, methods or activities in the conduct of gaming or in the business or financial arrangements incidental thereto.

(c) A finding of inimicality may be based upon the following:

(1) The nature and notoriety of the character or background of the person.

(2) The history and nature of the involvement of the person with licensed gaming in this Commonwealth or any other jurisdiction, or with any particular slot machine licensee or licensees or any affiliate, intermediary, subsidiary or holding company thereof.

(3) The nature and frequency of any contacts or associations of the person with any slot machine licensee or licensees, or with any employees or agents thereof.

(4) Any other factor reasonably related to the maintenance of public confidence in the efficacy of the regulatory process and the integrity of gaming operations, the gaming industry and its employees.

(d) A person's race, color, creed, national origin or ancestry, or sex will not be a reason for placing the name of any person upon the list.

**§ 511.4. Duties of the Bureau**

(a) The Bureau will, on its own initiative, or upon referral by the Board, investigate any individual who would appear to be an appropriate candidate for placement on the exclusion list.

(b) If, upon completion of an investigation, the Bureau determines that an individual should be placed on the exclusion list, the Bureau will file a petition for exclusion with the Board, identifying the candidate and setting forth a factual basis why the Bureau believes the candidate satisfies the criteria for exclusion set forth under section 1514 or 1515 of the act (relating to regulation requiring exclusion of certain persons; and repeat offenders excludable from licensed gaming facility) or this chapter.

(c) When the Bureau files a complaint alleging a violation of section 1514 of the act and § 511.9(a)(2) (relating to duty of slot machine licensee) against a licensee, the Bureau will file simultaneously a petition to exclude the person alleged in the complaint to meet the criteria for exclusion under § 511.3 (relating to criteria for exclusion).

(d) If, upon completion of an investigation undertaken upon referral by the Board, the Bureau determines that an individual should not be placed on the exclusion list, the Bureau will so recommend in writing to the Board.

**§ 511.5. Procedure for entry of names onto the exclusion list.**

The Board may place a person on the exclusion list as follows:

(1) Upon the filing of a petition by the Bureau in accordance with the procedures under section 1514(f) of the act (relating to regulation requiring exclusion of certain persons) and § 511.4 (relating to duties of the Bureau of Investigations and Enforcement).

(2) Upon receipt of an order from a court of competent jurisdiction within this Commonwealth, excluding the person from all licensed gaming facilities. The Board may consider the action upon receipt of the court order, after at least 30 days notice to the Bureau and to the person by certified mail at his last known address.

**§ 511.6. Application for preliminary placement of a candidate on the exclusion list.**

(a) In addition to filing a petition for exclusion, the Bureau may, in its discretion, file an application with the Board seeking preliminary placement of the candidate on the exclusion list pending completion of the plenary hearing on the petition for exclusion. An application for preliminary placement on the list will be supported by reliable documentary or other evidence.

(b) The Board may conduct a review of the application for preliminary placement and supporting material, and if the Board determines that the reliable documentary or other supporting evidence establishes a reasonable possibility that the candidate satisfies the criteria for exclusion established by section 1514 of the act (relating to regulation requiring exclusion of certain persons) and § 511.3 (relating to criteria for exclusion), the Board will issue a preliminary order placing the candidate on the exclusion list pending the issuance of a final order in accordance with § 511.7 (relating to final order of exclusion). Following the issuance of the preliminary order, the Board will notify the excluded individual in accordance with the notice and hearing procedures set forth under section 1514 of the act.

(c) Upon receipt of the exclusion notification, an excluded individual shall have 30 days to demand a hearing before the Board. Failure to demand a hearing within 30 days after service shall be deemed an admission of all matters and facts alleged in the Board's notice and a final order may be entered, placing the individual on the Board's exclude list.

(d) A preliminary order designating a candidate as an excluded person shall be effective upon its service upon slot machine licensees.

(e) The preliminary placement of a candidate on the exclusion list under section 1514 of the act and this chapter shall have the effect of requiring the exclusion or ejection of the excluded person from any licensed facility.

**§ 511.7. Final order of exclusion.**

The Board may issue a final order placing a person on the exclusion list after:

(1) Determining at a hearing that the person named for exclusion satisfies the criteria for exclusion established by the act or § 511.3 (relating to criteria for exclusion).

(2) Admission by the person named for exclusion of all matters and facts alleged in the Board's notice, either affirmatively, or through failure to request a hearing within 30 days of service of the exclusion notification.

**§ 511.8. Information contained on the exclusion list.**

The following information and data will be provided to the slot machine licensees for each excluded person:

(1) The full name and all aliases the person is believed to have used.

(2) A description of the person's physical appearance, including height, weight, type of build, color of hair and eyes and any other physical characteristics which may assist in the identification of the person.

(3) A date of birth.

(4) The effective date of the order mandating the exclusion or ejection of the person named therein.

(5) A photograph, if available, that is consistent with the standards of the Commonwealth Photo Imaging Network.

(6) The last known address of record.

(7) Other identifying information deemed necessary by the Board and the Bureau.

**§ 511.9. Duty of slot machine licensee.**

(a) A slot machine licensee shall exclude or eject the following persons from its licensed gaming facility:

(1) Any excluded person.

(2) Any person known to the slot machine licensee to satisfy the criteria for exclusion in section 1514 of the act (relating to regulation requiring exclusion of certain persons) and § 511.3 (relating to criteria for exclusion).

(b) If an excluded person enters, attempts to enter, or is in a licensed facility and is recognized by employees of the slot machine licensee, the slot machine licensee shall immediately notify the Board and Bureau of the fact in accordance with the procedures set forth by the Board.

(c) The Board may, upon request of any slot machine licensee or any person who has been excluded or ejected from a licensed facility under § 511.7 (relating to final order of exclusion), refer a matter to the Bureau for investigation to determine whether the person meets the criteria for exclusion provided in section 1514 of the act and § 511.3.

(d) It shall be the continuing duty of a slot machine licensee to inform the Board and the Bureau, in writing, of the names of persons the licensee believes are appropriate for placement on the exclusion list and the reason why the licensee believes those persons should be placed on the exclusion list.

(e) Licensed gaming entities or employees thereof will not be liable for damages in any civil action, which is based on the following:

(1) Failure to withhold gambling privileges from an excluded person.

(2) Permitting an excluded person to gamble.

(3) Excluding an excluded person from a licensed gaming facility as required under section 1514 of the act or this section.

**§ 511.10. Petition to remove name from exclusion list.**

(a) An excluded person may petition the Board to request a hearing concerning his removal from the list at any time after 5 years from the placement of the excluded person on the list by the Board.

(b) The petition must be signed, with supporting affidavits, and state the specific grounds believed by the petitioner to constitute good cause for removal from the list. Upon receipt of the petition, the Bureau will be given an opportunity to answer in writing.

(c) The Board may decide the petition on the basis of the documents submitted by the parties. The Board may summarily deny the petition or may grant the petition and direct that a hearing be held in accordance with section 1514(g) of the act (relating to regulation requiring exclusion of certain persons). The Board will grant the petition only upon a finding that there is new evidence, which is material and necessary, or that circumstances have changed since the placement of the excluded person on the list, and that there would be a reasonable likelihood that the Board would alter its previous decision.

(d) Any excluded person who is barred from requesting a hearing concerning his removal from the list under subsection (a) may petition the Board for early consideration at any time; however, an excluded person may not, within the 5 year period of exclusion, file more than one petition for early consideration. The petition must be verified, with supporting affidavits, and state any specific grounds upon which exclusion was based, and the facts

and circumstances which warrant the relief sought. Upon receipt of the petition, the Bureau will be given an opportunity to answer in writing. The Board may decide the petition on the basis of the documents submitted by the parties. The Board may summarily deny the petition or may grant the petition and direct that a hearing be held in accordance with section 1514(g) of the act. The Board will consider the following criteria when making its decision on a petition:

(1) Upon a finding that there exist extraordinary facts and circumstances warranting early consideration of the excluded person's request for removal from the list.

(2) If exclusion was ordered under § 511.5(a)(2) (relating to procedure for entry of names onto the exclusion list), upon a finding that the excluded person has completed the period of probation or otherwise satisfied the terms of any court-ordered exclusion.

[Pa.B. Doc. No. 06-1055. Filed for public inspection June 9, 2006, 9:00 a.m.]



# PROPOSED RULEMAKING

## DEPARTMENT OF LABOR AND INDUSTRY

[34 PA. CODE CH. 127]  
Medical Cost Containment

The Department of Labor and Industry (Department), Bureau of Workers' Compensation (Bureau), proposes to amend Chapter 127 (relating to workers' compensation medical cost containment) to provide and clarify requirements and procedures for reimbursement and review of medical treatment for work-related injuries under the Workers' Compensation Act (act) (77 P. S. §§ 1—1041.4 and 2501—2506).

### *Statutory Authority*

This rulemaking is proposed under the authority in sections 306(f.1), 401.1, 420(a) and 435 of the act (77 P. S. §§ 531(f.1), 710, 831(a) and 991).

### *Background*

Chapter 127 was originally promulgated at 25 Pa.B. 4873 (November 11, 1995) in response to the act of July 2, 1993 (P. L. 190, No. 44) (Act 44). Act 44 amended the act to provide medical cost containment mechanisms, including medical fee caps, fee review procedures, designated lists of physicians and medical treatment review procedures. The regulations were further amended at 28 Pa.B. 329 (January 17, 1998) in response to the act of June 24, 1996 (P. L. 350, No. 57), which significantly altered Utilization Review (UR) and designated list of physicians provisions in Chapter 127.

Since 1995, the Department has had the opportunity to examine the operation and effectiveness of Chapter 127. Myriad issues and occurrences, including far-reaching changes to Medicare payment systems and the advent of new medical procedures, arose during the Department's administration of Chapter 127 and have diminished the effectiveness and applicability of the regulations to the current workers' compensation and medical environments. Additionally, members of the regulated communities have alerted the Department to potential inefficiencies in the existing regulations, which the Department proposes to remedy through this proposed rulemaking.

On September 16, 2004, the Department held a stakeholder meeting to discuss this proposed rulemaking and invited the following groups: Pennsylvania Chapter of the IARPS; Office of Vocational Rehabilitation, Pennsylvania Rehabilitation Counseling Association; American Insurance Association; Alliance of American Insurers; Pennsylvania Trial Lawyers Association; PBA Workers' Compensation Law Section, Martin, Banks, Pond, Lehocky & Wilson; PBA WC Liaison Committee; Spence, Custer, Saylor, Wolfe & Rose; Insurance Federation of Pennsylvania, Inc.; Pennsylvania Self-Insurance Association; Thomas Jefferson University Hospital; Pennsylvania Defense Institute Workers' Compensation Committee; Pennsylvania AFL-CIO; Commission on Rehabilitation Counselor Certification; Alco Services, Ltd.; American Review Systems, Inc.; C.A.B. Medical Consultants; CEC, Inc.; CorVel Corporation; First Managed Care Option; Hajduk & Associates; Health Care Dimensions, Inc.; Industrial Rehabilitation Association, C/O FJP Enterprises, Inc.; KVS Consulting Services; LRC Rehabilitation Consultants; McBride & McBride Associates; QRS Managed

Care Services; Quality Assurance Reviews, Inc.; Rehabilitation Planning, Inc.; Solomon Associates, Inc.; T & G Reviews; Tx Review Inc.; West Penn IME, Inc.; AIG Claim Services, Inc.; American Interstate Insurance Company; CAN Insurance Company; CompServices, Inc.; Donegal Mutual Insurance Company; Eckert Seamans; Erie Insurance Company; Guard Insurance Group; Jonathan Greer; Liberty Mutual Insurance Company; Exelon Corporation; Penn National Insurance; PMA Group; Peerless Insurance; Risk Management, Inc.; State Workers' Insurance Fund; St. Paul Travelers Insurance Company; Zurich North America; Hospital Association of Pennsylvania; Temple University Hospital; David Frank, M.D.; PPTA; Northeastern Rehabilitation Association; Pennsylvania Association of Rehab Facilities; Paul Goble; Pennsylvania Chiropractic Association; The Hetrick Center; Dr. Carl Hiller; Dr. Walter Engle; Pennsylvania Medical Society; Catherine Wilson; Pennsylvania Orthopedic Society; Dr. Roy Lefkoe; Dr. Jon B. Tucker; Pennsylvania Pharmacists Association; Milton S. Hershey Medical Center; Insurance Department; Larry Chaban, Esqu.

Additionally, as a result of the invitation to the September 16, 2004, meeting, the Department received written comments from the following groups: Pennsylvania Chiropractic Association; State Workers' Insurance Fund; The Hospital and Healthsystem Association of Pennsylvania; Pennsylvania AFL/CIO; Pennsylvania Medical Society; the Pennsylvania Trial Lawyers Association; Pennsylvania Orthopedic Society; PMA Insurance Group; LRC Rehabilitation Associates, Inc.; American Insurance Association; Insurance Federation of Pennsylvania; Hajduk and Associates; Compservices, Inc.; and the Department's Office of Adjudication.

Actual attendees who made presentations at the meeting were: Kenneth Stoller, American Insurance Association; David Wilderman and Ronald Calhoon, Pennsylvania AFL/CIO; Sam Marshall, Insurance Federation of Pennsylvania; Jerry Lehocky, Pennsylvania Trial Lawyers Association; Dr. Maria Hatam, PMA Group; and Leona Franks, LRC Rehabilitation Consultants, Inc.

All comments and suggestions have been reviewed and considered.

### *Purpose*

By this proposed rulemaking, the Department seeks to address and correct uncertainties, competing interpretations and administrative obstacles encountered during the administration of Chapter 127. Further, the Department intends to remedy inefficiencies in the Medical Cost Containment system and to update terminology and processes used and described in the regulations to better reflect current practices, procedures and definitions.

### *Summary of Proposed Rulemaking*

#### *Subchapter A. Preliminary Provisions*

The Department proposes amending § 127.2 (relating to computation of time) to promote consistency in filing and service requirements and to coordinate filing and service practices under the chapters of the Bureau's regulations.

The Department proposes amending § 127.3 (relating to definitions) to ensure that terminology utilized in the regulations is consistent with the terminology utilized in the health care and insurance industries. Further, the Department proposes amending this section to provide

additional and updated definitions as necessary to reflect amendments made throughout the regulations.

*Subchapter B. Medical Fees and Fee Review*

Throughout this chapter, references to the Secretary of Health's approval of Coordinated Care Organizations (CCOs) have been amended to reflect that CCOs are approved by the Department. Additionally, numerous provisions have been amended to clarify that rates for services under the fee schedule were capped upon implementation of the fee schedule and are updated under §§ 127.151—127.162 (relating to medical fee updates). Further, the Department has made amendments throughout this subchapter to specifically identify provisions that supersede 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure). Finally, changes in grammar, punctuation and terminology appear throughout this subchapter.

In addition, the Department proposes amending § 127.103 (relating to outpatient providers subject to the Medicare fee schedule—generally) to delete the reference to the “transition fee schedule.” This reference is no longer necessary in light of changes in the Medicare system and the establishment of the original workers' compensation fee schedule. The Department further proposes amendments to clarify the means of updating outpatient providers' reimbursement rates.

The Department proposes amending § 127.104 (relating to outpatient providers subject to the Medicare fee schedule—physicians) to clarify the means of updating physicians' reimbursement rates.

The Department proposes amending § 127.105 (relating to outpatient providers subject to the Medicare fee schedule—chiropractors) to delete references to specific Health Care Financing Administration Common Procedure Coding System (HCPCS) codes and instead require billing based upon the appropriate codes. This amendment ensures that services rendered by chiropractors will be billed according to the correct codes regardless of changes to the coding system. The Department further proposes amendments to clarify the means of updating chiropractors' reimbursement rates.

The Department proposes amending § 127.106 (relating to outpatient providers subject to the Medicare fee schedule—spinal manipulation performed by Doctors of Osteopathic Medicine) to delete references to specific HCPCS codes and instead require billing based upon the appropriate codes. This amendment ensures that services rendered by doctors of osteopathic medicine will be billed according to the correct codes regardless of changes to the coding system. The Department further proposes amendments to clarify the means of updating osteopathic doctors' reimbursement rates.

The Department proposes amending § 127.107 (relating to outpatient providers subject to the Medicare fee schedule—physical therapy centers and independent physical therapists) to clarify the means of updating physical therapy centers' and physical therapists' reimbursement rates.

The Department proposes amending § 127.108 (relating to durable medical equipment and home infusion therapy) to clarify the means of updating reimbursement rates applicable to durable medical equipment and home infusion therapy.

The Department proposes amending § 127.109 (relating to supplies and services not covered by fee schedule) to require that providers specifically identify supplies provided under this section.

The Department proposes amending §§ 127.110 and 127.111 (relating to inpatient acute care providers—generally; and inpatient acute care providers—DRG payments) to clarify that updates to diagnostic related groups (DRG) calculations are in § 127.111a (relating to inpatient acute care providers—DRG updates).

The Department proposes adding § 127.111a to provide that the DRG grouper components in effect on the date of discharge shall be used to calculate reimbursement. The Department further proposes to clarify the means of calculating and updating payments to inpatient acute care providers.

The Department proposes amending § 127.114 (relating to inpatient acute care providers—outliers) to clarify that the applicable Medicare cost threshold is \$36,000.

The Department proposes amending § 127.117 (relating to outpatient acute care providers, specialty hospitals and other cost-reimbursed providers not subject to the Medicare fee schedule) to clarify the means for updating reimbursement rates under this section. In addition, the Department proposes amending the means of identifying services in the charge master by reference to service descriptors instead of service codes. Further, the Department proposes amending this section to provide the means for incorporating new codes and new services under this section. Finally, the Department proposes amending this section to provide that providers that, after the effective date of the proposed rulemaking, add new services for which Medicare reimburses on a fee-for-service basis will be reimbursed under this section on a fee-for-service basis.

The Department proposes amending §§ 127.120—127.124 to clarify the means of updating reimbursement rates for these services and providers.

The Department proposes amending § 127.125 (relating to ASCs) to provide that reimbursement to facilities operating as ambulatory surgical centers (ASC) will be based upon Medicare's ASC rates when the ASC is licensed by the Department of Health and to further clarify the means of updating reimbursement rates under this section.

The Department proposes amending § 127.128 (relating to trauma centers and burn facilities—exemption from fee caps) to provide that trauma centers and burn facilities continue to receive their usual and customary charges.

The Department proposes amending § 127.129 (relating to out-of-State medical treatment) to eliminate the requirement that out-of-State providers cap fees based upon the Pennsylvania fee schedule. This requirement has proven to be unenforceable and has provided false assurance to individuals seeking treatment from out-of-State providers who often seek to “balance-bill” injured employees.

The Department proposes amending § 127.130 (relating to special reports) to remove reference to the particular CPT code applicable to “special reports,” because the code may change over time. The Department further proposes removing the requirement that payment for these reports be capped at 80% of usual and customary charges, because special reports are not generally a component of medical treatment and, by definition, provide greater information than required under the act.

The Department proposes amending § 127.131 (relating to payments for prescription drugs and pharmaceuticals—generally) to provide that the Bureau will refer to

the "Drug Topics Redbook" when resolving fee disputes involving prescription drugs and pharmaceuticals.

The Department proposes amending § 127.132 (relating to payments for prescription drugs and pharmaceuticals—direct payment) to clarify that insurers may limit reimbursement/payment to pharmacies appearing on a proper list of designated providers, as set forth in Subchapter D (relating to employer list of designated providers). The Department proposes this clarification to better reflect the current state of the law regarding prescription reimbursement and designated providers.

The Department proposes amending § 127.133 (relating to payments for prescription drugs and pharmaceuticals—effect of denial of coverage by insurers) to provide that insurers must reimburse employees for the actual costs of prescription drugs, subject to the act and regulations. The Department proposes this amendment to clarify that reimbursement to employees is not subject to medical fee caps. Instead, medical providers' charges are subject to fee limitations.

The Department proposes amending § 127.134 (relating to payments for prescription drugs and pharmaceuticals—ancillary services of health care providers) to clarify the means of updating reimbursement rates for prescription drugs and pharmaceuticals.

The Department proposes rescinding §§ 127.153—127.161 because the provisions have been incorporated into §§ 127.101—127.134.

The Department proposes rescinding § 127.201 (relating to medical bills—standard forms) to require that providers request payment for medical bills and provide all required information to insurers within 90 days of the employee's first date of treatment with that provider. The Department further proposes amending this section to provide that failure to request payment as set forth in this section shall result in a waiver of any right to proceed against the insurer or claimant for payment of the bills. Additionally, the Department proposes adding a provision to clarify that providers may not bill or accept payment for services that are beyond the scope of their practice or licensure.

The Department proposes amending § 127.203 (relating to medical bills—submission of medical reports) to provide grammatical corrections and to further clarify that that medical information documenting billed treatment must be provided to the appropriate parties.

The Department proposes amending § 127.204 (relating to fragmenting or unbundling of charges by providers) to provide that fragmenting and unbundling of charges is only permitted where it is consistent with the most recent Medicare Correct Coding Initiative in effect on the date of service of the treatment, service or accommodation.

The Department proposes amending § 127.206 (relating to payment of medical bills—request for additional documentation) to clarify that requests for additional documentation do not alter insurers' obligations to timely make payment as provided in § 127.208 (relating to time for payment of medical bills).

The Department proposes amending § 127.207 (relating to downcoding by insurers) to make grammatical corrections and to clarify that code changes must be consistent with the Correct Coding Initiative. The Department further proposes amending this section to require insurers to notify providers of the codes that result from the downcoding process. The Department proposes this amendment to clarify that proper downcoding practices

require the insurer to arrive at a definitive conclusion regarding the code that it asserts is applicable. Insurers may not simply object to the code utilized by the provider without presenting an alternative code.

The Department proposes amending § 127.208 to provide grammatical corrections and to further require that providers submit medical documentation when submitting bills to insurers.

The Department proposes amending § 127.209 (relating to explanation of benefits paid) to amend references to "Explanations of Benefits (EOB)" to "Explanation of Reimbursement (EOR)," which more accurately describes that document. Further, the Department proposes amending this section to require that EORs be in a format prescribed by the Department. The Department further proposes amending this section to require that providers use an EOR to detail reasons for denying or downcoding a medical bill. Finally, the Department proposes amending this section to require that the EOR contain specific information regarding the insurer's identity and the Bureau's fee review process.

The Department proposes adding § 127.209a (relating to adjusting and administering the payment of medical bills) to require that any entity engaging in the business of adjusting and paying medical bills on the behalf of a provider, insurer, employee or self-insurer register with the Department under section 441(c) of the act (77 P. S. § 997(c)).

The Department proposes amending § 127.210 (relating to interest on untimely payments) to clarify that interest accrues on unpaid medical bills from the date upon which payment must originally be made under § 127.208.

The Department proposes amending § 127.211 (relating to balance billing prohibited) to further prohibit providers from billing patients for treatment regarding reported work injuries unless the provider has submitted a written denial of liability. The Department further proposes amending this section to provide penalties for improper denials of liability, or failure to issue an EOR where one is required.

The Department proposes amending § 127.251 (relating to medical fee disputes—review by the Bureau) to reflect amendments made to § 127.208.

The Department proposes amending § 127.252 (relating to application for fee review—filing and service) to eliminate the requirement that providers submit additional copies of fee review applications and to clarify that fee reviews may be filed within 30 days of the first notification of a disputed treatment. The Department further proposes amending this section to provide grammatical corrections and to clarify the requirement that a proper proof of service must be filed with an application for fee review and to provide for electronic filing.

The Department proposes amending § 127.253 (relating to application for fee review—documents required generally) to require that the application for fee review contain a copy of the first bill sent to the insurer and to further provide for language consistent with §§ 127.203—127.208. Additionally, the Department proposes deleting requirements regarding material that predated the Bureau's charge master.

The Department proposes amending § 127.255 (relating to premature applications for fee review) to provide the circumstances under which the Bureau will return applications for fee review.



The Department proposes amending § 127.256 (relating to administrative decision on an application for fee review) to provide that the Bureau may summarily deny applications for fee review when it is apparent that the application was not timely submitted. The Department further proposes amending this section to remove the requirement that the Bureau conduct an investigation and to provide that the product of a fee review decision is an order of the Department and may be amended or corrected to resolve typographical or mathematical errors.

The Department proposes amending § 127.257 (relating to contesting an administrative decision on a fee review) to remove requirements regarding additional copies, to clarify that filing and service must be made in a manner consistent with § 127.2 and to provide that requests for hearing must be signed.

The Department proposes amending § 127.258 (relating to Bureau as intervenor) to permit the Bureau to intervene in fee review hearings at any time.

The Department proposes amending § 127.259 (relating to fee review hearing) to clarify that a hearing officer may determine whether the request is timely and proper. The Department further proposes amending this section to clarify the procedural operations of the hearing process.

The Department proposes adding § 127.259a (relating to fee review hearing—burden of proof) to clarify the burdens of proof in fee review hearings.

The Department proposes amending § 127.260 (relating to fee review adjudications) to delete the requirement that the hearing officer issue decisions and orders within 90 days, and to clarify that the decisions and orders shall be mailed to counsel, if known.

The Department proposes amending § 127.302 (relating to resolution of referral disputes by Bureau) to provide that insurers asserting that the referral standards have been violated must do so through an EOB.

#### *Subchapter D. Employer List of Designated Providers*

The Department proposes amending § 127.752 (relating to contents of list of designated health care providers) to require that lists of designated providers prominently include the names, addresses, telephone numbers and areas of medical specialties of listed providers. The Department further proposes amending this section to prohibit employers from requiring employees to schedule appointments through a single point of contact. Further, the Department proposes that reference to a single point of contact or referral for multiple providers on the list be considered a single provider, as is consistent with this section's provisions regarding CCOs.

#### *Subchapter E. Medical Treatment Review*

The Department proposes rescinding §§ 127.153—127.161 and adding Subchapter E (relating to medical treatment review).

The Department proposes adding § 127.801 (relating to review of medical treatment generally) to provide that the Department will operate a UR process to permit review of reasonableness and necessity of treatment related to work injuries, that this review will be conducted by Utilization Review Organizations (UROs) authorized by the Secretary, that UR may be requested by or on behalf of employers, insurers or employees and that providers, employees and insurers are parties to UR.

The Department proposes adding § 127.802 (relating to treatment subject to review) to provide that UR only applies to treatment rendered on and after August 31, 1993.

The Department proposes adding § 127.803 (relating to assignment of cases to UROs) to provide that the Bureau will assign requests for UR to authorized UROs and that the Bureau will return requests for UR that are duplicative of existing UR requests or effective UR determinations.

The Department proposes adding § 127.804 (relating to prospective, concurrent and retrospective review) to provide that UR may be prospective, concurrent or retrospective and may be requested by any party eligible under § 127.801.

The Department proposes adding § 127.805 (relating to requests for UR—filing and service) to provide procedural requirements regarding the filing and service of requests for UR.

The Department proposes adding § 127.805a (relating to UR of medical treatment prior to acceptance of claim) to provide a means for review of medical treatment prior to formal acceptance of a claim for benefits under the act.

The Department proposes adding § 127.806 (relating to requests for UR—assignment by the Bureau) to provide that the Bureau will assign the UR to an authorized URO and will notify the parties to the UR of this assignment.

The Department proposes adding § 127.807 (relating to requests for UR—reassignment) to provide for reassignment of UR requests where the URO is unable to perform a UR assigned to it by the Bureau.

The Department proposes adding § 127.808 (relating to requests for UR—conflicts of interest) to prohibit UROs from performing UR when a conflict of interest exists and to identify situations that constitute a conflict of interest. The Department further proposes adding this section to provide that UROs may conduct recertification and redetermination reviews when they previously rendered a determination regarding the same treatment under review in the recertification or redetermination.

The Department proposes adding § 127.809 (relating to request for UR—withdrawal) to provide a procedure for withdrawal of a request for UR.

The Department proposes adding § 127.811 (relating to UR of entire course of treatment) to provide that insurers may request a review of all treatment rendered to an employee. The Department further proposes that this review may not affect the insurer's payment obligations regarding treatment rendered more than 30 days prior to the UR request. The Department further proposes that all treatment provided to an employee will be reviewed according to the providers' licenses and specialties, and that any inconsistencies between reviewers will be resolved through consultation of the involved reviewers.

The Department proposes adding § 127.821 (relating to precertification) to permit precertification of treatment proposed for a work-injury.

The Department proposes adding § 127.822 (relating to precertification—insurer obligations) to provide prerequisites for precertification, including requirements that the employee or provider first request preauthorization from the responsible insurer and that the responsible insurer respond to the employee's or provider's request. The Department proposes this provision to provide a streamlined mechanism for employees and providers to receive

preapproval of treatment options. The Department further proposes to permit providers and employees to rely upon USPS Form 3817 to demonstrate proof of mailing of the request.

The Department proposes adding § 127.823 (relating to precertification—provider-filed requests) to require that providers who file requests for precertification on behalf of employees detail the proposed treatment plan, procedure or referral, and serve a copy of the request on any providers to whom treatment may be referred.

The Department proposes adding § 127.824 (relating to precertification—employee-filed requests) to require UROs that receive employee-filed requests for precertification to contact the provider whose potential treatment is the subject of review and to request from that provider the treatment plan, procedure or referral relevant to the treatment under review within 10 days of the request. The Department further proposes that a provider's failure to supply information shall result in a determination that treatment is unreasonable and unnecessary, and that the URO must inform the provider of this determination.

The Department proposes adding § 127.825 (relating to assignment of proper requests for precertification) to permit the Bureau to assign requests for precertification to UROs in accordance with the provisions of this subchapter. Further, the Department proposes that the assignment of a UR request to a UR is interlocutory and is subject to review upon appeal of the UR determination.

The Department proposes adding § 127.831 (relating to prospective, concurrent and retrospective UR—insurer requests) to provide that insurers may request review of treatment that the employee is currently undergoing or may undergo in the immediate future.

The Department proposes adding § 127.832 (relating to concurrent and retrospective UR—payment obligations) to provide that insurers may suspend payment of bills issued within 30 days prior to the date of the UR request, but only insofar as the bills relate to the treatment under review. Further, the Department proposes tolling the 30-day period within which insurers may request retrospective UR and suspend payment of bills, pending an acceptance or determination of liability.

The Department proposes adding § 127.833 (relating to continuing effect of UR determinations) to provide for the continuing viability of UR determinations when treatment subject to review continues beyond the request. The Department proposes that determinations that treatment is reasonable and necessary continue to be effective to the extent specified in the determination. The Department further proposes establishing a process of recertification of reasonable and necessary treatment and further proposes that unreasonable/unnecessary treatment remains unreasonable and unnecessary until a change in the employee's condition merits redetermination of treatment. Finally the Department proposes establishing a process for redetermining the reasonableness and necessity of treatment.

The Department proposes adding § 127.841 (relating to requests for UR—recertification) to provide a process for recertifying that treatment that has been determined to be reasonable and necessary continues to be reasonable and necessary for some time into the future. The Department proposes establishing timelines for recertification and providing that requests for recertification will be assigned to the URO that rendered the determination that treatment was reasonable and necessary.

The Department proposes adding § 127.842 (relating to requests for UR—redetermination) to provide a process for reviewing treatment that has been determined to be unreasonable or unnecessary upon evidence that the employee's condition has changed so that the treatment may now be reasonable and necessary.

The Department proposes adding § 127.851 (relating to requesting and providing medical records) to require that UROs request records within 5 days of the date of the Notice of Assignment of a UR request. The Department further proposes a requirement that providers under review forward all records to the requesting URO within 15 days of the postmark date of the request, or within 7 days of the postmark date of a request for recertification or redetermination.

The Department proposes adding § 127.852 (relating to scope of review of UROs) to reflect that UROs may only address issues relevant to the reasonableness and necessity of the treatment under review. Further, the Department proposes that UROs may determine the extent to which treatment will remain reasonable and necessary into the future.

The Department proposes adding § 127.853 (relating to extent of review of medical records) to require UROs to attempt to obtain all available records of all treatment rendered for the work injury.

The Department proposes adding § 127.854 (relating to obtaining medical records—provider under review) to require UROs to request records from the provider under review in writing, and requiring the provider under review to sign a verification that the records are a true and complete copy of the employee's medical chart regarding the work injury.

The Department proposes adding § 127.855 (relating to employee personal statement) to permit employees to submit a statement regarding the reasonableness and necessity of the treatment under review. The Department further proposes requiring the URO to inform the employee of the opportunity to submit a written statement and providing timelines and guidance for consideration of the statement.

The Department proposes adding § 127.856 (relating to insurer submission of studies) to permit insurers to submit peer-reviewed, independently funded studies and articles to the URO, which may be relevant to the reasonableness and necessity of the treatment under review.

The Department proposes adding § 127.857 (relating to obtaining medical records—other treating providers) to require that UROs request records from all treating providers in writing and eliminating the provision in the prior regulations that permitted records to be requested telephonically. The Department further proposes requiring providers to submit verifications attesting to the records.

The Department proposes adding § 127.858 (relating to obtaining medical records—independent medical exams) to prohibit UROs from requesting, and parties from supplying, independent medical examinations or material other than medical records and other material specifically referenced in this subchapter.

The Department proposes adding § 127.859 (relating to obtaining medical records—duration of treatment) to require UROs to attempt to obtain records regarding the entire course of treatment rendered to the employee for the work injury.

The Department proposes adding § 127.860 (relating to obtaining medical records—reimbursement of costs of provider) to require UROs to reimburse providers for copying costs incurred in responding to requests for records.

The Department proposes adding § 127.861 (relating to provider under review's failure to supply medical records) to require UROs to issue determinations that treatment is unreasonable and unnecessary where providers fail to respond to requests for records. Additionally, the Department proposes that providers may be prohibited from introducing evidence regarding treatment related to any UR request in which they failed provide medical records without reasonable cause or excuse. The Department further proposes to prohibit providers from billing for this treatment.

The Department proposes adding § 127.862 (relating to requests for UR—deadline for URO determination) to provide that requests for UR shall be deemed complete upon the earlier of receipt of the medical records or 18 days from the date of the notice of assignment. Additionally, the URO shall complete its review and render a determination within 20 days of a completed request for UR, or within 10 days of a completed request for recertification or redetermination.

The Department proposes adding § 127.863 (relating to assignment of UR request to reviewer) to provide that UROs will assign matters to reviewers having the same licenses and specialties as the providers under review.

The Department proposes adding § 127.864 (relating to duties of reviewers—generally) to require that reviewers apply the best available clinical evidence in rendering determinations regarding the reasonableness and necessity of treatment. Providers must also specifically reference generally accepted treatment protocols, independently funded peer-reviewed studies and reliable medical literature applicable in light of the diagnosis rendered by the provider under review. The Department further proposes that reviewers address only the reasonableness and necessity of the treatment under review, and that reviewers assume the existence of a causal relationship between the treatment and the work injury. Finally, the Department proposes adding a requirement that reviewers specifically note the time frame within which treatment may continue to be reasonable and necessary. This time frame may not exceed 180 days.

The Department proposes adding § 127.865 (relating to duties of reviewers—conflict of interest) to outline conflicts of interest applicable to reviewers' activities and prohibit reviews when a conflict exists. The Department further proposes permitting reviewers to address treatment upon redetermination or recertification, even though they may have previously addressed treatment relating to the same matter.

The Department proposes adding § 127.866 (relating to duties of reviewers—content of reports) to define requirements for the contents of reviewers' reports.

The Department proposes adding § 127.867 (relating to duties of reviewers—signature and verification) to require that reviewers sign and verify reports that they author.

The Department proposes adding § 127.868 (relating to duties of reviewers—forwarding report and medical records to URO) to require that reviewers submit reports and records to the URO upon completion.

The Department proposes adding § 127.869 (relating to duties of UROs—review of report) to require UROs to

ensure that the reviewer has complied with the act and regulations and to prohibit UROs from attempting to persuade reviewers to alter medical opinions expressed in reports.

The Department proposes adding § 127.870 (relating to form and service of determinations) to require that UROs sign UR determinations, and forward the determinations and other documentation to parties to UR disputes.

The Department proposes adding § 127.871 (relating to determination against insurer—payment of medical bills) to require insurers to make payment for treatment found to be reasonable and necessary. Additionally, the Department proposes that this section reflect that interest on medical bills continues to accrue throughout the UR process, and that payment obligations are merely tolled, and not extended, by the UR process. Finally, the Department proposes amending this section to clarify that penalties may be appropriate where an insurer has failed to timely pay any medical bill or interest.

The Department proposes adding § 127.901 (relating to petition for review of UR determination) to provide that parties who disagree with a determination rendered by a URO may file a petition for review of a UR determination.

The Department proposes adding § 127.902 (relating to petition for review—time for filing) to require that petitions for review of UR determinations be filed within 30 days of the date of the determination.

The Department proposes adding § 127.903 (relating to petition for review—notice of assignment and service) to provide for assignment of petitions for review of UR determinations to workers' compensation judges and service of the assignment on all parties to the UR determination.

The Department proposes adding § 127.904 (relating to petition for review—no answer allowed) to provide that no answer may be filed in response to a petition for review.

The Department proposes adding § 127.905 (relating to petition for review—transmission of records) to require UROs to forward all medical records obtained for its review to the workers' compensation judge assigned to rule on a petition for review of UR determination. The section further provides for forwarding the URO report and requires that the URO verify the authenticity and completeness of the record. Finally, the section provides a means for the Bureau to reimburse the URO for copying costs associated with complying with this section.

The Department proposes adding § 127.906 (relating to petition for review by bureau—hearing and evidence) to provide that proceedings in response to petitions for review of UR determination are de novo. Workers' compensation judges are not bound by UR reports and will consider the reports as evidence. Further, the Department proposes adding a provision clarifying that the workers' compensation judge may request peer review as a means to garner additional evidence regarding the reasonableness and necessity of the treatment under review and that the workers' compensation judge may disregard evidence submitted by providers who failed to respond to the URO's request for records in the same matter.

The Department proposes adding § 127.1001 (relating to peer review—availability) to provide for peer review, during the litigation of a workers' compensation matter, of medical treatment related to the work injury.

The Department proposes adding § 127.1002 (relating to peer review—procedure upon motion of party) to

provide the means and guidelines for parties and workers' compensation judges to request peer review.

The Department proposes adding § 127.1003 (relating to peer review—interlocutory ruling) to provide that the ruling on a motion for peer review is interlocutory.

The Department proposes adding § 127.1004 (relating to peer review—forwarding request to Bureau) to provide the process by which workers' compensation judges may request peer review.

The Department proposes adding § 127.1005 (relating to peer review—assignment by the Bureau) to provide the process by which the Bureau will assign requests for peer review to Peer Review Organizations (PRO).

The Department proposes adding § 127.1006 (relating to peer review—reassignment) to require PROs to return requests for peer review that they cannot perform.

The Department proposes adding § 127.1007 (relating to peer review—conflicts of interest) to define conflicts of interest and to require PROs to return requests for peer review where these conflicts occur.

The Department proposes adding § 127.1008 (relating to peer review—withdrawal) to provide a means for workers' compensation judges to withdraw requests for peer review.

The Department proposes adding § 127.1009 (relating to obtaining medical records) to provide mechanisms for PROs to retrieve medical records regarding a request for peer review.

The Department proposes adding § 127.1010 (relating to obtaining medical records—-independent medical exams) to prohibit PROs from requesting, and the parties from supplying, documentation regarding litigation. Instead, this section as amended requires that only medical records of actual treating providers be provided to PROs.

The Department proposes adding § 127.1011 (relating to provider under review's failure to supply medical records) to require that PROs shall report a provider under review's noncompliance with a subpoena to the workers' compensation judge and to prohibit the PRO from assigning matters to a review prior to receiving medical records.

The Department proposes adding § 127.1012 (relating to assignment of peer review request to reviewer by PRO) to require PROs to forward medical records and the Notice of Assignment to a reviewer licensed in this Commonwealth having the same license and specialty as the provider under review.

The Department proposes adding § 127.1013 (relating to duties of reviewers—generally) to require that the reviewers adhere to § 127.864.

The Department proposes adding § 127.1014 (relating to duties of reviewers—conflict of interest) to define conflicts of interest and to require a reviewer to return requests for peer review to the PRO where these conflicts occur.

The Department proposes adding § 127.1015 (relating to duties of reviewers—finality of decisions) to require reviewers to make definite determinations as to the necessity and frequency of the treatment under review, to prohibit advisory opinions and to require that reviewers resolve issues in favor of the provider under review where the reviewer is unable to determine the necessity or frequency of the treatment under review.

The Department proposes adding § 127.1016 (relating to duties of reviewers—content of reports) to provide the minimum requirements for reviewers' reports.

The Department proposes adding § 127.1017 (relating to duties of reviewers—signature and verification) to require that reviewers sign and verify their reports.

The Department proposes adding § 127.1018 (relating to duties of reviewers—forwarding report and records to PRO) to require reviewers to forward their report and the reviewed medical records to the URO.

The Department proposes adding § 127.1019 (relating to duties of PRO—review of report) to require that PROs check reviewers' reports to ensure compliance with formal requirements, to require that PROs ensure that the reviewer has returned all medical records and to prohibit a PRO from contacting a reviewer and attempting to persuade the reviewer to change his opinion.

The Department proposes adding § 127.1020 (relating to peer review—deadline for PRO determination) to require a PRO to complete its review and render its determination within 15 days of its receipt of the medical records.

The Department proposes adding § 127.1021 (relating to PRO reports—filing with judge and service) to require that the PRO forward its report to the workers' compensation judge and provide listed parties with copies of the report by means of certified mail.

The Department proposes adding § 127.1022 (relating to PRO reports—evidence) to provide that the PRO report will be part of the record in the pending case, and that the workers' compensation judge must consider, but is not bound by, the report.

The Department proposes adding § 127.1023 (relating to PRO reports—payment) to require that PROs submit bills for services to the workers' compensation judge for approval.

The Department proposes adding § 127.1051 (relating to authorization of UROs/PROs) to provide that the Bureau may authorize UROs/PROs through contracts awarded under 62 Pa.C.S. Part I (relating to Commonwealth Procurement Code). The Department further proposes that the Bureau will not be required to award a contract to every offeror that submits a proposal that meets the minimum requirements established by the request for proposal.

The Department proposes adding § 127.1052 (relating to UROs/PROs authorized prior to (the effective date of these amendments)) to provide that UROs/PROs authorized prior to the effective date of this proposed rulemaking remain authorized until the expiration of the authorization currently in effect.

#### *Affected Persons*

Persons by this proposed rulemaking include workers' compensation judges, Workers' Compensation Appeals Board commissioners and officials and employees of the Department. Those affected also include participants in the Pennsylvania workers' compensation system, including injured employees, health care providers, employers, workers' compensation insurers and their respective legal counsel.

#### *Fiscal Impact*

This proposed rulemaking is expected to reduce costs to the Department and workers' compensation community by providing a more competitive environment for UR, and

by easing the administrative burdens associated with the adjustment and payment of medical bills.

*Reporting, Recordkeeping and Paperwork Requirements*

This proposed rulemaking requires the creation of one new form and few modifications to existing forms. Therefore, this proposed rulemaking does not impose significant additional reporting, recording or paperwork requirements on either the Commonwealth or the regulated community.

*Effective Date*

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

*Sunset Date*

No sunset date is necessary. The Department will continue to monitor the impact and effectiveness of the regulations.

*Contact Person*

Interested persons may submit written comments to the proposed rulemaking to Eileen Wunsch, Chief, Health Care Services Review Division, Bureau of Workers' Compensation, Department of Labor and Industry, Chapter 127 Regulations—Comments, P. O. Box 15121, Harrisburg, PA 17105, ra-li-bwc-administra@state.pa.us. Written comments must be received within 30 days of the publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Written comments received by the Department may be made available to the public.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 26, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Committee on Labor and Industry and the House Labor Relations Committee. A copy of this material is available to the public upon request.

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

STEPHEN M. SCHMERIN,  
*Secretary*

**Fiscal Note:** 12-72. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 34. LABOR AND INDUSTRY**

**PART VIII. BUREAU OF WORKERS' COMPENSATION**

**CHAPTER 127. WORKERS' COMPENSATION MEDICAL COST CONTAINMENT**

**Subchapter A. PRELIMINARY PROVISIONS**

§ 127.2. [ **Computation** ] **Filing and service—computation** of time.

[ **Unless otherwise provided, references to "days" in this chapter mean calendar days. For purposes**

**of determining timeliness of filing and receipt of documents transmitted by mail, 3 days shall be presumed added to the prescribed period. If the last day for filing a document is a Saturday, Sunday or legal holiday, the time for filing shall be extended to the next business day. Transmittal by mail means by first-class mail. ]**

**(a) A filing required by this chapter is deemed complete upon delivery in person or, if by mail, upon deposit in the United States Mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid.**

**(b) Service required by this chapter is deemed complete upon delivery in person or, if by mail, upon deposit in the United States Mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid.**

**(c) Proof of service required by this chapter must contain the following:**

**(1) A statement of the date of service.**

**(2) The names of the individuals and entities served.**

**(3) The mailing address, the applicable zip code and the manner of service on the individuals and entities served.**

**(d) Unless otherwise specifically provided in this chapter, filing or service required to be made upon the Bureau shall be made to the Health Care Services Review Division of the Bureau at: 1171 South Cameron Street, Harrisburg, Pennsylvania 17104-2501, (717) 783-5421 or another address and telephone number as may be published in the *Pennsylvania Bulletin* or as set forth on the applicable Bureau form.**

**(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 31.5, 31.11, 31.12, 31.13, 31.14, 31.15, 31.26, 33.32 and 33.34-33.37.**

**§ 127.3. Definitions.**

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

**ASC—Ambulatory Surgery Center—A center that operates exclusively for the purpose of furnishing outpatient surgical services to patients[. These facilities are ] that is referred to by [ HCFA ] CMS as [ ASCs ] an ASC and is licensed by the Department of Health as [ ASFs ] an ASF. [ For consistency with the application of Medicare regulations, these facilities are referred to in this chapter as ASCs. ]**

\* \* \* \* \*

**Acute care—The inpatient and outpatient hospital services provided by a facility licensed by the Department of Health as a general or tertiary care hospital, other than a specialty hospital, such as a rehabilitation [ and ] or psychiatric provider.**

**Approved teaching program—A hospital teaching program [ which ] that is accredited in its field by the appropriate approving body to provide graduate medical education or paramedical education services, or both. Accreditation for medical education programs shall be as recognized by one of the following:**

\* \* \* \* \*

*Audited Medicare cost report*—The Medicare cost report, settled by the Medicare fiscal intermediary through the conduct of either a field audit or desk review resulting in the issuance of the Notice of Program Reimbursement, or a successive mechanism used by Medicare to determine program reimbursement costs or rates.

\* \* \* \* \*

*Bureau code*—The numeric identifier that the Bureau may assign to each insurer, self-insurer or third-party administrator authorized to provide services in this Commonwealth.

*Burn facility*—A facility [which] that meets the service standards of the American Burn Association.

*CCO—Coordinated Care Organization*—An organization certified [under Act 44] by the Secretary [of Health for the purpose of providing] to provide medical services to injured [employees] employees.

\* \* \* \* \*

*CMS*—The Centers for Medicare and Medicaid Services, formerly referred to as the HCFA.

\* \* \* \* \*

*Capital related cost*—The [health care] provider's expense related to depreciation, interest, insurance and property taxes on fixed assets and moveable equipment.

*Charge master*—A [provider's listing of current charges] listing of cost-based reimbursable providers' rates of reimbursement for procedures and supplies utilized in the provider's billing [process] processes.

\* \* \* \* \*

*Concurrent review*—Utilization review of treatment rendered to an employee conducted during the course of the treatment.

*Correct coding initiative*—The National Correct Coding Initiative developed and published by or on behalf of CMS to promote National coding methodologies.

*DME—Durable medical equipment*—[The term includes iron lungs, oxygen tents, hospital beds and wheelchairs (which may include a power-operated vehicle that may be appropriately used as wheelchair) used in the patient's home or in an institution, whether furnished on a rental basis or purchased.] Equipment that can withstand repeated use and is primarily and customarily used to serve a medical purpose and that provides therapeutic benefit, or enables injured employees to perform certain tasks that they are unable to undertake otherwise due to their medical conditions or illnesses.

\* \* \* \* \*

*Downcode*—Altering or amending the HCPCS, CPT, DRG, ICD or other code that a provider utilized to seek payment for a particular treatment, service or accommodation.

*EOR—Explanation of reimbursement*—A document, in a format prescribed by the Department,

that explains an insurer's decision to pay, downcode or deny payment of a medical bill or bills.

\* \* \* \* \*

*HCFA*—The Health Care Financing Administration or the CMS.

\* \* \* \* \*

*Health care provider*—A person, corporation, facility or institution licensed, or otherwise authorized[, ] by the Commonwealth to provide health care services, including physicians, [coordinated care organizations] CCOs, hospitals, health care facilities, dentists, nurses, optometrists, podiatrists, physical therapists, psychologists, chiropractors[, ] or pharmacists, and officers, [employees] employees or agents of the person acting in the course and scope of employment or agency related to health care services.

\* \* \* \* \*

*ICD[-9-CM (ICD-9)]*—The International Classification of Diseases[-], identified by its edition and modification (that is, ICD-9-CM = Ninth Edition—Clinical Modification).

\* \* \* \* \*

*Insurer*—A workers' compensation insurance carrier, including the State [Workmen's] Workers' Insurance Fund, an employer who is authorized by the Department to self-insure its workers' compensation liability under section 305 of the act (77 P.S. § 501), or a group of employers authorized by the Department to act as a self-insurance fund under section 802 of the act (77 P.S. § 1036.2).

*Interim rate notification*—[The letter,] Correspondence from the HCFA, CMS, Medicare or a Medicare intermediary to [the] a provider[, informing] that informs the provider of [their] its interim payment rate and [its] effective date.

\* \* \* \* \*

*Medical records*—Written information that accurately, legibly and completely reflects the evaluation and treatment of the patient. Correspondence with individuals or entities not involved in evaluating and treating the patient, such as legal counsel, payer representatives or case-management personnel not actually providing patient care, are not medical records under this chapter.

*Medical reports*—Documentation that providers are required to submit to insurers under section 306 (f.1)(6) of the act (77 P.S. § 531(2)) and § 127.203 (relating to medical bills, submission of medical documentation), that includes information regarding an injured employee's medical history, diagnosis, treatment and services rendered, and medical records documenting billed treatment.

*Medical Report Form*—The form designated by the Department under section 306(f.1)(6) of the act and § 127.203.

*Medicare carrier*—An organization with a contractual relationship with [HCFA] CMS to process Medicare Part B claims.

*Medicare intermediary*—An organization with a contractual relationship with [HCFA] CMS to process Medicare Part A or Part B claims.

\* \* \* \* \*

*New provider*—A provider [ **which** ] that began administering patient care after receiving initial licensure on or after August 31, 1993.

*Notice of [ biweekly ] payment rates*—[ **The letter of notification** ] A notice from the Medicare intermediary to the provider, informing the provider of [ **their biweekly** ] its payment rate for direct medical education and paramedical education costs.

*Notice of per resident amount*—[ **The letter of notification** ] A notice from the Medicare intermediary to the provider, informing the provider of [ **the** ] its annual payment amount per resident or intern full-time equivalent.

*Notification of disputed treatment*—An EOR, a written denial of payment, or a Utilization Review Determination Face Sheet.

\* \* \* \* \*

*Precertification*—Prospective review, sought by an employee or provider, to determine whether future treatment is reasonable and necessary.

\* \* \* \* \*

*Provider under review*—A provider that, within the context of a particular UR or Peer Review request, provides or orders the health care services for which utilization or peer review is requested. When treatment is provided or ordered by a provider whose activities are subject to direction or supervision by another provider, the directing or supervising provider shall be the provider under review.

*Prospective review*—UR of proposed treatment that is conducted before the treatment is provided.

\* \* \* \* \*

*Recertification*—UR of prospective treatment previously determined to be reasonable and necessary, that may certify that the treatment will continue to be reasonable and necessary for a fixed period of time.

*Redetermination*—UR of prospective treatment previously determined to be unreasonable and unnecessary.

*Retrospective review*—UR of treatment that was already provided to an employee.

\* \* \* \* \*

*Service code*—The code assigned to each provider's individual treatment, service or accommodation as contained in the charge master maintained by the Bureau.

*Service descriptor*—The written description of each provider's individual treatment, service or accommodation as contained in the charge master maintained by the Bureau.

*Specialty*—Certification by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Associations' Bureau of Osteopathic Specialists.

\* \* \* \* \*

*Statewide average weekly wage*—The amount determined annually by the Department, under sec-

tion 105.1 of the act (77 P.S. § 25.1) for each calendar year on the basis of employment covered by the Pennsylvania Unemployment Compensation Law (43 P.S. §§ 751—914) for the 12-month period ending June 30 preceding the calendar year.

[ *Transition fee schedule*—The Medicare payment amounts as determined by the Medicare carrier, based on the transition rules requiring a blend of the full fee schedule (full implementation of the Resource Based Relative Value Scale, RBRVS) and the original provider fee schedule. ]

\* \* \* \* \*

*Treatment*—The management and care of a patient for the purpose of combating disease or disorder.

\* \* \* \* \*

*Usual and customary charge*—The charge most often made by providers of similar training, experience and licensure for a specific treatment, accommodation, product or service in the geographic area where the treatment, accommodation, product or service is provided, as evidenced by a database published or referenced by the Department in the *Pennsylvania Bulletin*.

*Workers' [ Compensation ] compensation judge*—As defined by section 401 of the act (77 P.S. § 701) [ (definition of "referee") ] and as appointed by the Secretary.

**Subchapter B. MEDICAL FEES AND FEE REVIEW CALCULATIONS**

§ 127.101. Medical fee caps—[ **Medicare** ] general provisions and initial rates for treatment rendered before January 1, 1995.

(a) Generally, medical fees for services rendered under the act [ **shall** ] will be capped at 113% of the Medicare reimbursement rate applicable in this Commonwealth under the Medicare Program for comparable services rendered. The medical fees allowable under the act [ **shall** ] will fluctuate with changes in the applicable Medicare reimbursement rates for services rendered prior to January 1, 1995. Thereafter, for services rendered on and after January 1, 1995, medical fees [ **shall** ] will be updated only in accordance with [ §§ 127.151—127.162 (relating to medical fee updates) ] this chapter.

\* \* \* \* \*

(d) The Medicare reimbursement mechanisms that shall be used when calculating payments to providers under the act are set forth in §§ 127.103—[ **127.128** ] 127.135.

\* \* \* \* \*

(f) An insurer may not make payment in excess of the medical fee caps, unless payment is made pursuant to a contract with a CCO certified by the Secretary [ **of Health** ].

§ 127.103. Outpatient providers subject to the Medicare fee schedule—generally.

(a) When services are rendered by outpatient providers who are reimbursed under the Medicare Part B Program pursuant to the Medicare fee schedule, the payment under the act shall be calculated using the Medicare fee schedule as a basis. [ **The fee schedule for determin-**

ing payments shall be the transition fee schedule as determined by the Medicare carrier. ]

(b) The insurer shall pay the provider for the applicable Medicare procedure code, **required by the act and this chapter**, even if the service in question is not a compensated service under the Medicare Program.

(c) If a Medicare allowance does not exist for a reported CPT or HCPCS code, or successor codes, the provider shall be paid either 80% of the usual and customary charge or the actual charge, whichever is lower.

\* \* \* \* \*

(e) [ Fee updates subsequent to December 31, 1994, shall be in accordance with §§ 127.152 and 127.153 (relating to medical fee updates on and after January 1, 1995—generally; and medical fee updates on and after January 1, 1995—outpatient providers, services and supplies subject to the Medicare fee schedule). ] Payment for services rendered under this section on and after January 1, 1995, will be frozen as of December 31, 1994, and updated annually by the percentage change in the Statewide average weekly wage.

(f) On and after January 1, 1995, adjustments and modifications by CMS relating to a change in description or renumbering of any CPT or HCPCS code will be incorporated into the basis for determining the amount of payment as frozen in subsection (e) for services rendered under the act.

(g) On and after January 1, 1995, payment rates under the act for new CPT or HCPCS codes will be based on the rates allowed in the Medicare fee schedule published in the *Federal Register* within the calendar years of the effective date of the new codes. These payment rates will be frozen immediately, and thereafter updated annually by the percentage change in the Statewide average weekly wage.

§ 127.104. Outpatient providers subject to the Medicare fee schedule—physicians.

(a) Payments to physicians for services rendered under the act shall **initially** be calculated by multiplying the Medicare Part B reimbursement for the services by 113%.

(b) Payment for services rendered under this section on and after January 1, 1995, will be frozen as of December 31, 1994, and updated annually by the percentage change in the Statewide average weekly wage.

(c) On and after January 1, 1995, adjustments and modifications by CMS relating to a change in description or renumbering of a CPT or HCPCS code will be incorporated into the basis for determining the amount of payment as frozen under subsection (b) for services rendered under the act.

(d) On and after January 1, 1995, payment rates under the act for new CPT or HCPCS codes will be based on the rates allowed in the Medicare fee schedule published in the *Federal Register* within the calendar year of the effective date of the new codes. These payment rates will be frozen immediately, and thereafter updated annually by the percentage change in the Statewide average weekly wage.

§ 127.105. Outpatient providers subject to the Medicare fee schedule—chiropractors.

\* \* \* \* \*

(b) Payments for spinal manipulation procedures by chiropractors shall **initially** be based on the Medicare fee schedule for **the appropriate CPT or HCPCS codes [ 98940—98943 ]**, multiplied by 113%.

(c) Payments for physiological therapeutic procedures by chiropractors shall **initially** be based on the Medicare fee schedule for **the appropriate CPT or HCPCS codes [ 97010—97799 ]**, multiplied by 113%.

(d) Payments shall be made for documented office visits and shall **initially** be based on the **[ Medicare fee schedule for ] appropriate CPT or HCPCS codes [ 99201—99205 and 99211—99215 ]**, multiplied by 113%.

(e) Payment shall be made for an office visit provided on the same day as another procedure only when the office visit represents a significant and separately identifiable service performed in addition to the other procedure. The office visit shall be billed under the **[ proper ] appropriate level CPT or HCPCS codes [ 99201—99215 ]**, and shall require the use of the procedure code modifier **[ “-25” ( ) indicating a Significant, Separately Identifiable Evaluation and Management Service by the Same Physician on the Day of a Procedure ( ) ]**.

(f) Payment for services rendered under this section on and after January 1, 1995, will be frozen as of December 31, 1994, and updated annually by the percentage change in the Statewide average weekly wage.

(g) On and after January 1, 1995, adjustments and modifications by CMS relating to a change in description or renumbering of a CPT or HCPCS code will be incorporated into the basis for determining the amount of payment as frozen under subsection (f) for services rendered under the act.

(h) On and after January 1, 1995, payment rates under the act for new CPT or HCPCS codes will be based on the rates allowed in the Medicare fee schedule published in the *Federal Register* within the calendar years of the effective date of the new codes. These payment rates will be frozen immediately, and thereafter updated annually by the percentage change in the Statewide average weekly wage.

§ 127.106. Outpatient providers subject to the Medicare fee schedule—spinal manipulation performed by Doctors of Osteopathic Medicine.

(a) Payments for spinal manipulation procedures by Doctors of Osteopathic Medicine shall **initially** be based on the **[ Medicare fee schedule for ] appropriate level CPT or HCPCS codes [ M0702—M0730 (through 1993) or ] HCPCS codes [ 98925—98929 (1994 and thereafter) ]**, multiplied by 113%.

(b) Payment shall be made for an office visit provided on the same day as a spinal manipulation only when the office visit represents a significant and separately identifiable service performed in addition to the manipulation. The office visit shall be billed under the **[ proper ] appropriate level CPT or HCPCS codes [ 99201—99215 ]**, and shall require the use of the procedure code modifier **[ “-25” ( ) indicating a Significant, Separately Identifiable Evaluation and Management Service by the Same Physician on the Day of a Procedure ( ) ]**.



\* \* \* \* \*

(d) Payment for services rendered under this section on and after January 1, 1995, will be frozen as of December 31, 1994, and updated annually by the percentage change in the Statewide average weekly wage.

(e) On and after January 1, 1995, adjustments and modifications by CMS relating to a change in description or renumbering of a CPT or HCPCS code will be incorporated into the basis for determining the amount of payment as frozen under subsection (d) for services rendered under the act.

(f) On and after January 1, 1995, payment rates under the act for new CPT or HCPCS codes will be based on the rates allowed in the Medicare fee schedule published in the *Federal Register* within the calendar years of the effective date of the new codes. These payment rates will be frozen immediately, and thereafter updated annually by the percentage change in the Statewide average weekly wage.

**§ 127.107. Outpatient providers subject to the Medicare fee schedule—physical therapy centers and independent physical therapists.**

(a) Payments to outpatient physical therapy centers and independent physical therapists not reimbursed in accordance with § 127.118 (relating to RCCs—generally) shall initially be calculated by multiplying the Medicare Part B reimbursement for the services by 113%.

(b) Payment for services rendered under this section on and after January 1, 1995, will be frozen as of December 31, 1994, and updated annually by the percentage change in the Statewide average weekly wage.

(c) On and after January 1, 1995, adjustments and modifications by CMS relating to a change in description or renumbering of a CPT or HCPCS code will be incorporated into the basis for determining the amount of payment as frozen under subsection (b) for services rendered under the act.

(d) On and after January 1, 1995, payment rates under the act for new CPT or HCPCS codes will be based on the rates allowed in the Medicare fee schedule published in the *Federal Register* within the calendar years of the effective date of the new codes. These payment rates will be frozen immediately, and thereafter updated annually by the percentage change in the Statewide average weekly wage.

**§ 127.108. Durable medical equipment and home infusion therapy.**

(a) Payments for durable medical equipment, home infusion therapy and the applicable CPT or HCPCS codes related to the infusion equipment, supplies, nutrients and drugs, shall initially be calculated by multiplying the Medicare Part B Fee Schedule [reimbursement] for the equipment or therapy by 113%.

(b) Payment for services rendered under this section on and after January 1, 1995, will be frozen as of December 31, 1994, and updated annually by the percentage change in the Statewide average weekly wage.

(c) On and after January 1, 1995, adjustments and modifications by CMS relating to a change in description or renumbering of any CPT or HCPCS

code will be incorporated into the basis for determining the amount of payment as frozen under subsection (b) for services rendered under the act.

(d) On and after January 1, 1995, payment rates under the act for new CPT or HCPCS codes will be based on the rates allowed in the Medicare fee schedule published in the *Federal Register* within the calendar years of the effective date of the new codes. These payment rates will be frozen immediately, and thereafter updated annually by the percentage change in the Statewide average weekly wage.

**§ 127.109. Supplies and services not covered by fee schedule.**

Payments for supplies provided over those included with the billed office visit shall be made at 80% of the provider's usual and customary charge when the provider supplies sufficient documentation to support the necessity of those supplies. The supplies shall be specifically identified on the HCFA 1500 or UB 92 form applicable to the treatment rendered. Supplies included in the office visit code by Medicare may not be fragmented or unbundled in accordance with § 127.204 (relating to fragmenting or unbundling of charges by providers).

**§ 127.110. Inpatient acute care providers—generally.**

(a) Payments to providers of inpatient acute care hospital services shall be based on the sum of the following, as updated under § 127.111a (relating to inpatient acute care providers—DRG updates):

\* \* \* \* \*

**§ 127.111. Inpatient acute care providers—DRG payments.**

(a) Payments to providers of inpatient hospital services, whose Medicare Program payments are based on DRGs, shall be calculated by multiplying the established DRG payment on the date of discharge by 113%, except as set forth in § 127.111a (relating to inpatient acute care providers—DRG updates).

\* \* \* \* \*

**§ 127.111a. Inpatient acute care providers—DRG updates.**

(a) On and after January 1, 1995, inpatient acute care providers, whose payments under the act are based on DRGs plus add-ons under §§ 127.110—127.116 shall be paid using the DRG Grouper, relative weight, Geometric and Arithmetic Mean Lengths of Stay and Outlier thresholds in effect on the date of discharge.

(b) On and after January 1, 1995, add-on payments based on capital-related costs as set forth in § 127.112 (relating to inpatient acute care providers—capital-related costs) will be frozen at the rates in effect on December 31, 1994, and updated annually by the percentage change in the Statewide average weekly wage.

(c) On and after January 1, 1995, add-on payments based on medical education costs as set forth in § 127.113 (relating to inpatient acute care providers—medical education costs) will be frozen based on the calculations made using the Medicare cost report and interim rate notification in effect on December 31, 1994. These frozen rates will be applied to the DRG rates in effect on the date of discharge, as set forth in subsection (a).

(1) Hospitals that lose the right to receive add-on payments based on medical education costs under the Medicare Program on and after January 1, 1995, shall also lose the right to receive these payments under the act as set forth in § 127.113. Commencing with services rendered on or after January 1 of the year succeeding the change in status, the add-on payment that has been computed and included in the Medicare fee cap as frozen on December 31, 1994, will be eliminated from the calculation of the reimbursement.

(2) Hospitals which gain the right to receive add-on payments based on medical education costs under the Medicare Program on and after January 1, 1995, shall receive payments based on the rates calculated in § 127.113(c). These payments will be frozen immediately, and thereafter be applied to the DRG rates in effect on the date of discharge, as set forth in subsection (a).

(d) On and after January 1, 1995, add-on payments based on cost-to-charge outliers as set forth in § 127.114 (relating to inpatient acute care providers—outliers) will be frozen based on the thresholds and calculations in effect on December 31, 1994. These payments may not be updated based on changes in the Statewide average weekly wage.

(e) On and after January 1, 1995, add-on payments based on day outliers as set forth in § 127.114 will be frozen based on the arithmetic and geometric mean length of stay in effect for discharges on December 31, 1994. These frozen rates will be applied to the DRG rates in effect on the date of discharge, as set forth in subsection (a).

(f) On and after January 1, 1995, add-on payments based on the designation under the Medicare Program as a disproportionate share hospital, will be frozen based on the designation and calculation in effect on December 31, 1994. These frozen rates will be applied to the DRG rates in effect on the date of discharge, as set forth in subsection (a).

(g) On and after January 1, 1995, payments based on designations under the Medicare Program as a Medicare-dependent small rural hospital, sole-community hospital and Medicare-geographically reclassified hospital will be frozen based on the designations and calculations in effect on December 31, 1994. These rates will be updated annually by the percentage change in the Statewide average weekly wage.

§ 127.112. Inpatient acute care providers—capital-related costs.

\* \* \* \* \*

(b) Hospitals, which have a hospital-specific capital rate lower than the Federal capital rate (fully-prospective), shall be paid for capital-related costs [as follows:] by multiplying the hospital's capital rate, as determined by the Medicare intermediary, [shall be multiplied] by the DRG relative weight on the date of discharge.

(c) Hospitals, which have a hospital-specific capital rate equal to or higher than the Federal capital rate (hold-harmless), shall be paid for capital-related costs as follows:

\* \* \* \* \*

(2) Hospitals paid at a rate greater than 100% of the Federal capital rate shall be paid on the basis of the most recent [notice of interim payment rates] interim rate notification as determined by the Medicare intermediary. Hospitals shall receive the new Federal capital rate multiplied by the DRG relative weight on the date of the discharge plus the old Federal capital rate as determined by the Medicare intermediary.

(d) Capital-exceptional hospitals, or new hospitals within the first 2 years of participation in the Medicare Program, shall be paid for capital-related costs [as follows:] by adding the most recent interim payment rate for capital-related costs, as determined by the Medicare intermediary, [shall be added] to the DRG payment on the date of discharge.

§ 127.113. Inpatient acute care providers—medical education costs.

(a) Providers of inpatient hospital services shall receive an additional payment in recognition of the costs of medical education as provided pursuant to an approved teaching program and as reimbursed under the Medicare Program. For providers with an approved teaching program in place prior to January 1, 1995, the medical education add-on payment shall be based on the following calculations:

\* \* \* \* \*

(2) Payments for indirect medical education costs shall be calculated as follows: the add-on percentage, identified in the provider's latest [Medicare] interim rate notification, multiplied by the DRG payment on the date of discharge.

\* \* \* \* \*

(c) On and after January 1, 1995, if a hospital begins receiving add-on payments for medical education costs under the Medicare Program, it shall also gain the right to receive add-on payments for medical education costs under the act, commencing with services rendered on or after January 1 of the year succeeding the change in status.

(1) The hospital shall notify the Bureau in writing of this change in status on or before November 30 of the year in which the hospital has gained the right to receive a medical education add-on payment. The notification [shall] must include the following:

\* \* \* \* \*

(iv) The notice of [biweekly] payment rates received from the Medicare Intermediary.

\* \* \* \* \*

(2) If the hospital gained the right to receive a medical education add-on payment on or after January 1, 1995, the payment shall be based on the following calculations:

(i) Payments for direct medical education costs shall be based on the notice of [biweekly payment amount] payment rates. This amount shall be annualized, multiplied by the ratio of Part A reasonable cost to total reasonable cost from Worksheet E-3, Part IV, Line 15, and divided by total hospital DRG payments from the most recently audited Medicare cost report (Worksheet E, Part A, Column 1, Line 1). This amount shall then be multiplied by the DRG payment on the date of discharge.

(ii) Payments for indirect medical education costs shall be calculated as follows: the add-on percentage, identified

in the provider's most recent [ Medicare ] interim rate notification for the calendar year in which the approved teaching program commenced, multiplied by the DRG payment on the date of discharge.

(iii) Payments for paramedical education costs shall be based on the notice of [ biweekly payment amount ] payment rates. This amount shall be annualized, multiplied by the ratio of Part A reasonable cost to total reasonable cost from Worksheet E-3, Part IV, Line 15, and divided by total hospital DRG payments from the most recently audited Medicare cost report (Worksheet E, Part A, Column 1, Line 1). This amount shall be multiplied by the DRG payment on the date of discharge.

§ 127.114. Inpatient acute care providers—outliers.

(a) Payments for cost outliers shall be based on the Medicare method for determining eligibility for additional payments as follows: the billed charges will be multiplied by the aggregate ratio of cost-to-charges obtained from the most recently audited Medicare cost report to determine the cost of the claim. [ This cost of claim shall be compared to the applicable Medicare cost threshold. Cost ] Costs in excess of [ the threshold ] \$36,000 shall be multiplied by 80% to determine the additional cost outlier payment.

(b) Payments to acute care providers, when the length of stay exceeds the Medicare thresholds ("day outliers"), shall be determined by applying the Medicare methodology as follows: the DRG payment plus the capital payments shall be divided by the arithmetic mean of length of stay for that DRG as determined by [ HCFA ] CMS to arrive at a per diem payment rate. This rate shall be multiplied by the number of actual patient days for the claim which are in excess of the outlier threshold as determined by [ HCFA ] CMS and published in the Federal Register. The result is added to the DRG payment.

\* \* \* \* \*

§ 127.115. Inpatient acute care providers-disproportionate—share hospitals.

\* \* \* \* \*

(b) [ Payments to disproportionate-share ] Disproportionate-share hospitals shall be [ calculated as follows: ] reimbursed by multiplying the add-on percentage identified in the provider's latest [ Medicare ] interim rate notification [ shall be multiplied ] by the DRG payment on the date of discharge [ and ], the product of which shall then be multiplied by 113%.

\* \* \* \* \*

(d) If a hospital loses its right to receive additional payments as a disproportionate-share hospital under the Medicare Program prior to January 1, 1995, it [ shall also lose its right to ] may not receive additional payments under the act.

\* \* \* \* \*

§ 127.116. Inpatient acute care providers—Medicare-dependent small rural hospitals, sole-community hospitals and Medicare-geographically reclassified hospitals.

(a) [ Payments for ] Medicare-dependent small rural hospitals, sole-community hospitals and Medicare-geographically reclassified hospitals [ , ] shall be [ calcu-

lated as follows: ] reimbursed by multiplying the hospital's payment rate identified on the latest [ Medicare ] interim rate [ notice shall be multiplied ] notification by the DRG payment on the date of discharge, [ and ] the product of which shall then be multiplied by 113%.

\* \* \* \* \*

(c) If a hospital loses its designation as a Medicare-dependent small rural hospital, sole-community hospital or Medicare-geographically reclassified hospital under the Medicare Program prior to January 1, 1995, it [ shall also lose the designation and the right to ] may not receive additional payments under the act.

\* \* \* \* \*

§ 127.117. Outpatient acute care providers, specialty hospitals and other cost-reimbursed providers [ not subject to the Medicare fee schedule ].

(a) The following services shall be paid on a cost-reimbursed basis for medical treatment rendered under [ Act 44 ] the act:

\* \* \* \* \*

(b) As of December 31, 1994, the provider's actual charge by procedure as determined from the charge master shall be multiplied by the ratio of cost-to-charges, based on the most recently audited Medicare cost report. Except as stated in subsection (c), this amount will be frozen as of December 31, 1994 for purposes of calculating payments under the act and updated annually by the percentage change in the Statewide average weekly wage.

(c) To calculate rates frozen in subsection (b), the Bureau will multiply the provider's billed charges by the RCC associated with the appropriate Revenue Code. The appropriate Revenue Code is the Revenue Code that applies to the corresponding service descriptor in the charge master as of September 1, 1994, or the Revenue Code that applies to the corresponding service descriptor added to the charge master under subsection (f)(2).

(d) Subsection (b) will not apply when the charge master does not contain unique charges for each item of pharmacy and when actual charges are based on algorithms or other mathematical calculations to compute the charge. For purposes of effectuating the freeze, the providers' RCC for pharmacy (drug charges to patients) will be frozen based on the last audited Medicare cost report as of December 31, 1994. On and after January 1, 1995, the providers' actual charges shall be multiplied by the frozen RCC and then by 113% to determine reimbursement. These payments may not be updated based on changes in the Statewide average weekly wage.

(e) Providers that are reimbursed under this section and add new services requiring the addition of new service descriptors within previously reported Medicare revenue codes and frozen RCCs shall receive payment based on the charge associated with the new service multiplied by the frozen RCC.

(f) Providers that are reimbursed under this section and add new services requiring the addition of new service descriptors outside of the previously reported Medicare revenue codes and frozen RCCs, shall receive payment as follows:

(1) Before the completion of the audited cost report that includes the new services, payment shall be based on 80% of the provider's usual and customary charge.

(2) Upon completion of the first audited cost report that includes the new services, payment shall be based on the charge associated with the new service multiplied by the audited RCC including the charge. Payment rates shall be frozen immediately and updated annually by the percentage change in the Statewide average weekly wage.

(g) Providers reimbursed under this section that, commencing \_\_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.), add new services for which the providers are reimbursed by Medicare on a fee-for-service basis, shall receive reimbursement according to the procedures established under this chapter for Medicare Part B services.

(h) Providers that are reimbursed under this section and add new services under subsections (f) or (g) shall provide the service descriptor, HCPCS codes, applicable Medicare revenue codes and applicable cost data to the Bureau within 30 days of the date on which the provider first provides the new service. The Bureau will include all reimbursement rates relating to the new service in the next publication of the charge master. Providers shall thereafter be reimbursed for the service as set forth in the charge master, and may not assert that the service is new as set forth in subsection (f)(1).

§ 127.118. RCCs—generally.

Payments for services listed in § 127.117 (relating to outpatient acute care providers, specialty hospitals and other cost reimbursed providers [ not subject to the Medicare fee schedule ]) shall be based on the provider's specific Medicare departmental RCC for the specific services or procedures performed. For treatment rendered on and before December 31, 1994, the provider's latest audited Medicare cost report, with an NPR date preceding the date of service, shall provide the basis for the RCC.

§ 127.119. Payments for services using RCCs.

(a) Payments for services listed in § 127.117(a)(1) (relating to outpatient acute care providers, specialty hospitals and other cost reimbursed providers [ not subject to the Medicare fee schedule ]) shall initially be calculated [ as follows: ] by multiplying the provider charge [ shall be multiplied ] by the applicable RCC, the product of which [ then ] shall then be multiplied by 113%. This amount shall be updated as set forth in § 127.117.

\* \* \* \* \*

(c) Payments for inpatient services listed in § 127.117(a)(2) shall initially be calculated as follows, and updated as set forth in § 127.117:

(1) Inpatient routine services shall be reimbursed based on the inpatient routine cost per diem from the most recently audited Medicare cost report, HCFA Form 2552-89 or 2552-92, Worksheet D-1, Part II, Line 38. The routine cost per diem shall be updated by the TEFRA (Tax Equity and Fiscal Responsibility Act of 1982) target rate of increase as published by [ HCFA ] CMS in the Federal Register. The applicable update shall be applied

cumulatively based on the annual update factors published subsequent to the date of the audited cost report year end and prior to December 31, 1994.

\* \* \* \* \*

§ 127.120. RCCs—comprehensive outpatient rehabilitation facilities (CORFs) and outpatient physical therapy centers.

(a) Except as [ noted ] provided in [ subsection (c) ] this section, payments for services listed in § 127.117(a)(3) and (4) (relating to outpatient acute care providers, specialty hospitals and other cost reimbursed providers [ not subject to the Medicare fee schedule ]) relating to CORFs and outpatient physical therapy centers, shall be calculated [ as follows: ] by multiplying the provider's charge [ shall be multiplied ] by the applicable RCC, the product of which [ then ] shall then be multiplied by 113%. This amount shall be updated as set forth in subsection (d).

\* \* \* \* \*

(d) On and after January 1, 1995, payments to CORFs and outpatient physical therapy centers under this section, will be frozen and updated as follows:

(1) For providers whose basis of Medicare apportionment is gross charges, payment rates will be frozen as of December 31, 1994, and updated annually by the percentage change in the Statewide average weekly wage.

(2) For providers whose basis of Medicare apportionment is therapy visits or weighted units, the computed payment rate as of December 31, 1994, will be frozen and updated annually by the percentage change in the Statewide average weekly wage.

§ 127.121. Cost-reimbursed providers—medical education costs.

\* \* \* \* \*

(b) If the cost-reimbursed provider loses its right to receive add-on payments for medical education costs under the Medicare Program, it [ shall also lost its right to ] may not receive add-on payments for medical education costs under the act, commencing with services rendered on or after January 1 of the year succeeding the change in status. The provider shall notify the Bureau in writing of this change in status on or before November 30 of the year in which the provider has lost the right to receive a medical education add-on payment.

(c) On and after January 1, 1995, if the cost-reimbursed provider begins receiving add-on payments for medical education costs under the Medicare Program, it [ shall ] may also [ gain the right to ] receive add-on payments for medical education costs under the act, commencing with services rendered on or after January 1 of the year succeeding the change in status.

(1) The provider shall notify the Bureau in writing of this change on or before November 30 of the year in which the provider has gained the right to receive a medical education add-on payment. The notification [ shall ] must include the following:

\* \* \* \* \*

(iii) The notice of [ biweekly ] payment rates received from the Medicare intermediary.

\* \* \* \* \*

(2) If the provider gained the right to receive a medical education add-on payment on or after January 1, 1995, the payment shall be based on the notice of [biweekly] payment [amount] rates. This amount shall be annualized and divided by the sum of the hospitals' inpatient and outpatient cost from Supplemental Worksheet E-3, Part IV, Column 1, Line 12.05 and Line 13.03. This ratio shall then be multiplied by the provider's charges, multiplied by the applicable RCC, multiplied by applicable updates and added to the charge master payment rates.

**(d) On and after January 1, 1995, add-on payments based on medical education costs under this section will be frozen based on the calculations made using the Medicare cost report. These rates shall be updated annually by the percentage change in the Statewide average weekly wage.**

(1) Cost-reimbursed providers that lose their right to receive add-on payments based on medical education costs under the Medicare Program on and after January 1, 1995, may not receive these payments under the act. Commencing with services rendered on or after January 1 of the year succeeding the change in status, the add-on payment that has been computed and included in the Medicare fee cap as frozen on December 31, 1994, including annual updates attributable to those medical education add-on payments, shall be eliminated from the calculation of the reimbursement. The new reimbursement rate will be frozen immediately and updated annually by the percentage change in the Statewide average weekly wage.

(2) Cost-reimbursed providers that gain the right to receive add-on payments based on medical education costs under the Medicare Program on and after January 1, 1995, may receive payments based on the rates calculated in this section. These rates will be frozen immediately and updated annually by the percentage change in the Statewide average weekly wage.

**§ 127.122. Skilled nursing facilities.**

(a) Payments to providers of skilled nursing care who file Medicare cost reporting forms HCFA 2540 (freestanding facilities) or HCFA 2552 (hospital-based facilities), or any successor forms, shall be calculated [as follows:] by multiplying the most recent Medicare interim per diem rate [shall be multiplied] by the number of patient days [and], the product of which shall then be multiplied by 113%.

**(b) On and after January 1, 1995, the payment set forth in subsection (a) will be frozen as of December 31, 1994, and updated annually by the percentage change in the Statewide average weekly wage.**

**§ 127.123. Hospital-based and freestanding home health care providers.**

(a) Payments to providers of home health care who file [an] HCFA Form 1728 (freestanding facilities) or [an] HCFA Form 2552 (hospital-based facilities), or any successor forms, shall be calculated [as follows:] by multiplying the per visit limitation as determined by the Medicare Program [multiplied] by 113%. If the usual and customary charge per visit is lower than this calculation, then payment shall be limited to the usual and customary charge per visit. Payment at 113% of the Medicare limit shall represent payment for the entire

service including all medical supplies and other items subject to cost reimbursement by the Medicare Program.

**(b) On and after January 1, 1995, the payment set forth in subsection (a) will be frozen as of December 31, 1994, and updated annually by the percentage change in the Statewide average weekly wage.**

**§ 127.124. Outpatient and end-stage renal dialysis payment.**

(a) Payments to providers of outpatient and end-stage renal dialysis shall be calculated [as follows:] by multiplying the Medicare composite rate, per treatment, [shall be multiplied] by 113%.

\* \* \* \* \*

(c) On and after January 1, 1995, payments to providers of outpatient and end-stage renal dialysis under subsection (a) will be frozen on December 31, 1994, and updated annually by the percentage change in the Statewide average weekly wage.

**§ 127.125. ASCs.**

(a) Payments to providers of outpatient surgery in an ASC [, ] licensed by the Department of Health shall be based on the ASC payment groups defined by [HCFA, and shall include the Medicare list of covered services and related classifications in these groups] CMS. This payment amount shall be multiplied by 113%. [For surgical procedures not included in the Medicare list of covered services, payment shall be based on 80% of the usual and customary charge.]

(b) On and after January 1, 1995, payments to providers of outpatient surgery in ASCs under subsection (a) will be frozen as of December 31, 1994, and updated annually by the percentage change in the Statewide average weekly wage.

**§ 127.126. New providers.**

\* \* \* \* \*

(b) New providers who are receiving payments in accordance with § 127.117 (relating to outpatient acute care providers, specialty hospitals and other cost-reimbursed providers [not subject to the Medicare fee schedule]) shall receive payments calculated as follows:

(1) Commencing with the date the provider begins treating its first patient until the completion and filing of the first Medicare cost report, payment shall be based on the aggregate RCC using the most recent [Medicare] interim rate notification.

(2) Within 30 days of the filing of the first cost report a new provider shall submit to the Bureau a copy of the [detailed] charge master in effect at the conclusion of the first cost report year and a copy of the filed cost report. Upon receipt of the filed cost report, payments shall be made in accordance with § 127.119 (relating to payments for services using RCCs), using the filed RCCs. The [detailed] charge master will be frozen in accordance with [§ 127.155 (relating to medical fee updates on and after January 1, 1995—outpatient acute care providers, specialty hospitals and other cost reimbursed providers)] § 127.119 (relating to payments for services using RCCs).

\* \* \* \* \*

(c) A new provider shall submit a copy of the audited Medicare cost report and NPR to the Bureau within 30 days of receipt of each by the provider.

§ 127.128. Trauma centers and burn facilities—exemption from fee caps.

\* \* \* \* \*

(i) Trauma centers and burn facilities shall continue to receive their usual and customary charges on and after January 1, 1995, as set forth in this section.

§ 127.129. Out-of-State medical treatment.

[ (a) ] When injured [ employes ] employees are treated outside of this Commonwealth by providers who are licensed by the Commonwealth to provide health care services, the applicable medical fee cap shall be as follows:

\* \* \* \* \*

[ (b) When injured employes are treated outside of this Commonwealth by providers who are not licensed by the Commonwealth to provide health care services, medical fees shall be capped based on the Medicare reimbursement rate applicable in Harrisburg, Pennsylvania, under the Medicare Program for the services rendered subject to § 127.152. ]

§ 127.130. Special reports.

(a) Payments shall be made for special reports [ (CPT code 99080) ] only if these reports are specifically requested by the insurer.

(b) Office notes and other documentation which are necessary to support provider codes billed [ may not be considered ] are not special reports. Providers may not request payment for these notes and documentation. [ Payments for special reports shall be at 80% of the provider's usual and customary charge. ]

(c) The Bureau-prescribed report required by § 127.203 (relating to medical bills—submission of medical reports) [ may not be considered ] is not a special report [ that is chargeable under this section ].

§ 127.131. Payments for prescription drugs and pharmaceuticals—generally.

(a) Payments for prescription drugs and professional pharmaceutical services shall be limited to 110% of the average wholesale price (AWP) of the product. The AWP shall be established by the most recent edition of the "Drug Topics Redbook," published by Medical Economics Company of Montvale, NJ or its successor.

(b) [ Pharmacists and insurers may reach agreements on which Nationally recognized schedule shall be used to define the AWP of prescription drugs. The Bureau in resolving payment disputes, may use any of the Nationally recognized schedules to determine the AWP of prescription drugs. The Bureau will provide information by an annual notice in the Pennsylvania Bulletin as to which of the Nationally recognized schedules it is using to determine the AWP of prescription drugs.

(c) [ Pharmacists may not bill or [ otherwise ] hold the [ employe ] employee liable, for the difference

between the actual charge for the prescription drugs and pharmaceutical services and 110% of the AWP of the product.

(c) Pharmacists dispensing prescriptions for injuries compensable under the act shall comply with the act of November 24, 1976 (P. L. 1163, No. 259) (35 P. S. §§ 960.1—960.7), known as the Generic Equivalent Drug Law.

§ 127.132. Payments for prescription drugs and pharmaceuticals—direct payment.

\* \* \* \* \*

(b) When agreements are reached under subsection (a), insurers shall promptly notify injured [ employes ] employees of the names and locations of pharmacists who have agreed to directly bill and accept payment from the insurer for prescription drugs. However, insurers may not require [ employes ] employees to fill prescriptions at the designated pharmacies, except as provided in Subchapter D (relating to employer list of designated providers).

§ 127.133. Payments for prescription drugs and pharmaceuticals—effect of denial of coverage by insurers.

[ If an injured employe pays more than 110% of the average wholesale price of a prescription drug because the insurer initially does not accept liability for the claim under the act, or denies liability to pay for the prescription, the ] The insurer shall reimburse the injured [ employe ] employee for the actual [ cost ] costs of [ the ] prescription drugs [ , once liability has been admitted or determined ] as provided in the act and this chapter.

§ 127.134. Payments for prescription drugs and pharmaceuticals—ancillary services of [ health care ] providers.

(a) A pharmacy or pharmacist owned or employed by a [ health care ] provider, which is recognized and reimbursed as an ancillary service by Medicare, and which dispenses prescription drugs to individuals during the course of treatment in the provider's facility, shall receive payment under the applicable Medicare reimbursement mechanism multiplied by 113%.

(b) On and after January 1, 1995, payments for prescription drugs and professional pharmaceutical services will be limited to 110% of the average wholesale price.

§ 127.135. Payments for prescription drugs and pharmaceuticals—drugs dispensed at a physician's office.

(a) When a prescription is filled at a physician's office, payment for the prescription drug shall be limited to 110% of the average wholesale price (AWP) of the product.

\* \* \* \* \*

MEDICAL FEE UPDATES

§ 127.152. Medical fee updates on and after January 1, 1995—generally.

(a) Changes in Medicare reimbursement rates on and after January 1, 1995, may not be included in calculations of payments to providers under [ Act 44 ] the act, except as permitted in this chapter.

\* \* \* \* \*

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to delete the text of §§ 127.153—127.161, which appears in 34 Pa. Code pages 127-28—127-33, serial pages (203472) to (203474), (294663) to (294664) and (261181).)

§§ 127.153—127.161. (Reserved).

#### BILLING TRANSACTIONS

§ 127.201. Medical bills[—standard forms] generally.

\* \* \* \* \*

(b) Cost-based providers shall submit a detailed bill including the service [codes] descriptors consistent with the service [descriptors] codes submitted to the Bureau in accordance with § [127.155(b)] 127.117 (relating to [medical fee updates on and after January 1, 1995 —] outpatient acute care providers, specialty hospitals and other cost-reimbursed providers), or consistent with new service [codes] descriptors added under § [127.155(d) and (e)] 127.117(d)—(i).

(c) Providers shall request payment for medical bills and provide all applicable reports required under § 127.203 (relating to medical bills—submission of medical documentation) within 90 days from the first date of treatment reflected on the bill.

(d) A provider may not seek payment from the insurer or employee if the provider failed to request payment within the time set forth in subsection (c).

(e) A provider may not bill, accept payment for, or attempt to recover from the employee, employer or insurer, charges relating to services that are beyond the scope of the provider's practice or licensure, under the laws of the jurisdiction where the services are performed.

§ 127.202. Medical bills—use of alternative forms.

(a) Until a provider submits bills on one of the forms specified in § 127.201 (relating to medical bills[—standard forms] generally) insurers are not required to pay for the treatment billed.

\* \* \* \* \*

§ 127.203. Medical bills—submission of medical [reports] documentation.

(a) Providers who treat injured [employees are required to submit periodic] employees shall periodically submit [medical reports] Medical Reports to the employer, commencing 10 days after treatment begins and at least once a month thereafter as long as treatment continues. If the employer [is covered by an insurer] has insured its workers' compensation liability, the provider shall instead submit the [report] Medical Reports to the insurer. If the employer is self-insured, the provider shall submit the Medical Reports to the employer, or to the employer's agent or administrator if the employer has informed the provider that the agent or administrator is the proper billing recipient for the patient.

(b) [Medical reports are not required to be submitted in] Providers are not required to submit

Medical Reports for months during which no treatment has [not] been rendered.

(c) [The medical reports required by subsection (a) shall be submitted on a form prescribed by the Bureau for that purpose. The form shall require the provider to supply, when pertinent, information on the claimant's history, the diagnosis, a description of the treatment and services rendered, the physical findings and the prognosis, including whether or not there has been recovery enabling the claimant to return to pre-injury work without limitations. Providers shall supply only the information applicable to the treatment or services rendered.] Providers shall submit the Medical Reports required by subsection (a) with the Medical Report Form.

(d) [If a provider does not submit the required medical reports on the prescribed form, the insurer is not obligated to pay for the treatment covered by the report until the required report is received by the insurer.] In submitting the Medical Report Form and Medical Reports, the provider shall provide the following:

- (1) Information on the employee's history.
- (2) The employee's diagnosis.

(3) A description of the treatment and services rendered to the employee.

(4) The physical findings and prognosis, including whether there has been recovery enabling the employee to return to preinjury work without limitations.

(5) The medical records documenting the billed treatment.

(e) The insurer is not obligated to make payment until 30 days after its receipt of the bill, Medical Reports and the Medical Report Form.

§ 127.204. Fragmenting or unbundling of charges by providers.

A provider may not fragment or unbundle charges except as consistent with the Correct Coding Initiative in effect on the date of service.

§ 127.207. Downcoding by insurers.

(a) [Changes to a provider's codes by an] An insurer may [be made] make changes to a provider's codes if all of the following conditions are met:

(1) The provider has been notified in writing of the proposed code changes and the reasons in support of the changes.

(2) The provider has been given an opportunity to discuss the proposed code changes and support the original coding decisions.

(3) The insurer has sufficient information to make the code changes.

(4) The code changes are consistent with [Medicare guidelines] the Correct Coding Initiative, the act and this subchapter.

(b) For purposes of subsection (a)(1), the provider shall be given 10 days to respond to the notice of the proposed code changes, and the insurer must have written evidence of the date notice was sent to the provider.

(c) Whenever changes to a provider's billing codes are made, the insurer shall inform the provider of the code that it asserts is correct and shall state the reasons why the provider's original codes were changed in the [ explanation of benefits ] EOR required by § 127.209 (relating to explanation of [ benefits ] reimbursement paid).

\* \* \* \* \*

§ 127.208. Time for payment of medical bills.

(a) Payments for treatment rendered under the act shall be made within 30 days of the insurer's receipt of the bill, Medical Reports, and [ report submitted by the provider ] Medical Report Form required by § 127.203 (relating to medical bills—submission of medical documentation).

(b) For purposes of computing the timeliness of payments, the insurer shall be deemed to have received [ a ] the bill, [ medical records ] Medical Reports and [ report ] Medical Report Form 3 days after mailing by the provider. Payments shall be deemed timely made if mailed on or before the 30th day following receipt of [ the bill and report ] all of these documents.

(c) If an insurer requests additional information or records from a provider under § 127.206 (relating to payment of medical bills—request for additional documentation), the request may not lengthen the 30-day period in which payment shall be made to the provider.

(d) If an insurer proposes to change a provider's codes, the time required to give the provider the opportunity to discuss the proposed code changes may not lengthen the 30-day period in which payment shall be made to the provider.

(e) The 30-day period in which payment shall be made to the provider may be tolled only if review of the reasonableness or necessity of the treatment is requested during the 30-day period under the UR provisions of Subchapter [ C ] E (relating to medical treatment review). The insurer's right to suspend payment shall continue throughout the UR process. The insurer's right to suspend payment shall further continue beyond the UR process to a proceeding before a workers' compensation judge, unless there is a UR determination made that the treatment is reasonable and necessary.

\* \* \* \* \*

(g) If a URO determines that medical treatment is reasonable or necessary, the insurer shall pay for the treatment. Filing a petition for review before a workers' compensation judge[, ] does not further suspend the obligation to pay for the treatment once there has been a determination that the treatment is reasonable or necessary. If it is finally determined that the treatment was not reasonable or necessary, and the insurer paid for the treatment in accordance with this chapter, the insurer may seek reimbursement from the Supersedeas Fund under section 443(a) of the act (77 P. S. § 999(a)).

§ 127.209. Explanation of [ benefits ] reimbursement paid.

(a) Insurers shall supply a written [ explanation of benefits (EOB) ] EOR to the provider, [ describing the calculation of ] in a Department-prescribed format explaining the insurer's decision to pay, downcode

or deny payment of medical bills submitted by the provider. Insurers shall supply the EOR within 30 days of the insurer's receipt of the documentation required by § 127.203 (relating to medical bills—submission of medical documentation).

(b) If payment is based on changes to a provider's codes, the [ EOB ] EOR shall state the reasons for changing the original codes and state the codes that the insurer asserts are correct. If payment of a bill or service is denied entirely, [ insurers shall provide a written explanation for the denial ] an insurer shall in the EOR, inform the provider whether:

(1) The insurer disclaims liability for the employee's injury.

(2) The insurer asserts that the treatment provided is not related to the employee's work-injury.

(3) The insurer has not received the documentation required by § 127.203.

(4) The insurer asserts that the provider failed to bill within the time permitted by § 127.201 (relating to medical bills—generally).

(5) The insurer requested utilization review of the billed treatment.

(6) The insurer asserts that the billed treatment was rendered in violation of the referral standards of § 127.301 (relating to referral standards).

(c) All [ EOBs ] EORs shall prominently display the Bureau Code and name of the insurer and contain the following notice: "Health care providers are prohibited from billing for, or otherwise attempting to recover from the [ employe ] employee, the difference between the provider's charge and the amount paid on this bill. [ " ] If you believe that payment has been incorrectly calculated or is untimely, you may file an application for fee review with the Bureau of Workers' Compensation."

§ 127.209a. Adjusting and administering the payment of medical bills.

A person or entity that engages in calculating reimbursement or paying medical bills under §§ 127.201—127.209, on behalf of a provider, insurer, employer or self-insurer, is engaged in the business of adjusting or servicing injury cases under section 441(c) of the act (77 P. S. § 997(c)).

§ 127.210. Interest on untimely payments.

(a) If an insurer fails to pay the entire bill [ within 30 days of receipt of the required bills and medical reports ] as required by § 127.208 (relating to time for payment of medical bills), interest shall accrue on the due and unpaid balance at 10% per annum under section 406.1(a) of the act (77 P. S. § 717.1).

\* \* \* \* \*

(c) Interest shall accrue on unpaid medical bills from the date by which payment must be made under § 127.208, even if an insurer initially denies liability for the bills [ if ], when liability is later admitted or determined.

(d) Interest shall accrue on unpaid medical bills from the date by which payment must be made under § 127.208, even if an insurer has filed a request for UR under Subchapter [ C ] E (relating to medical treatment



review) [ if a ], when it is later [ determination is made ] determined that the insurer was liable for paying the bills.

**§ 127.211. Balance billing prohibited.**

(a) [ A provider may not hold an employee liable for the ] A provider may not bill, accept payment for or attempt to recover from the employee costs related to care or services rendered in connection with a compensable injury under the act. A provider may not bill [ for ], accept payment for or attempt to recover from the [ employe ] employee or employer, the difference between the provider's charge and the amount paid by an insurer.

(b) A provider may not bill, accept payment for [ , ] or attempt to recover from the [ employe ] employee, insurer or employer, charges for treatment or services determined to be unreasonable or unnecessary in accordance with the act or Subchapter [ C ] E (relating to medical treatment review).

(c) A provider may not bill, accept payment for or attempt to recover from the employee, charges relating to treatment rendered for a reported work injury until the provider has received an EOR from the insurer denying that the treatment is related to the work injury or denying liability for a work injury.

(d) An insurer that issues an EOR containing an improper or incorrect denial of liability, or that fails to issue an EOR required by the act or this chapter, violates the act and this chapter under section 435 of the act (77 P. S. § 991).

**REVIEW OF MEDICAL FEE DISPUTES**

**§ 127.251. Medical fee disputes—review by the Bureau.**

A provider who has submitted the required bills [ and reports ], Medical Reports and Medical Report Forms to [ an ] the appropriate insurer and who disputes the amount or timeliness of the payment made by [ an ] the insurer, shall have standing to seek review of the fee dispute by the Bureau.

**§ 127.252. Application for fee review—filing and service.**

(a) Providers seeking review of fee disputes shall file [ the original and one copy of a form prescribed by the Bureau as ] an application for fee review. The application for fee review shall be filed no more than [ 30 days following notification of a disputed treatment or ] 90 days following the original billing date of the treatment which is the subject of the fee dispute [ , ] or 30 days following the insurer's receipt of the first notification of a disputed treatment, whichever is later. Under this section, the insurer shall be deemed to have received a notification of disputed treatment 3 days after the notification is deposited in the United States Mail. The form [ shall ] must be accompanied by documentation required by § 127.253 (relating to application for fee review—documents required generally).

(b) Providers shall serve a copy [ for ] of the application for fee review [ , ] and the attached documents [ , ] required by § 127.253 upon the insurer. [ Proof of

Service shall accompany the application for fee review and shall indicate the person served, the date of service and the form of service. ]

(c) The application must include a proof of service which must be completed and signed by the provider as required by § 127.2 (relating to filing and service—computation of time) and indicate the person served, the date of service and the form of service.

(d) The Bureau will return any application which is incomplete or on which the proof of service has not been signed.

(e) Providers shall send the application for fee review and all related attachments to the address for the Bureau listed on the application form, or file the application for fee review electronically as the Bureau may permit.

[ (d) ] (f) The time for filing an application for fee review will be tolled while [ if ] the insurer has the right to suspend payment to the provider under § 127.208 (relating to time for payment of medical bills) due to a dispute regarding the reasonableness and necessity of the treatment under Subchapter [ C ] E (relating to medical treatment review).

(g) Subsections (a)—(f) supersede 1 Pa. Code §§ 31.5, 31.11, 31.12, 31.13, 31.14, 31.15, 31.26, 33.31, 33.32 and 33.34—33.37.

**§ 127.253. Application for fee review—documents required generally.**

(a) Providers [ reimbursed under the Medicare Part B Program ] shall submit all of the following documents with their application for fee review:

(1) [ The applicable Medicare billing form. ] A copy of the first bill submitted to the insurer under § 127.201 (relating to medical bills—generally).

(2) [ The ] A copy of the required [ medical report form ] Medical Report Form, together with [ office notes ] the Medical Reports and documentation supporting the procedures performed or services rendered required under § 127.203 (relating to medical bills—submission of medical documentation).

(3) [ The explanation of benefits ] A copy of the EOR, if available.

(b) [ Providers reimbursed under the Medicare Part A Program and providers reimbursed by Medicare based on HCFA Forms 2552, 2540, 2088 or 1728, or successor forms, shall submit the following documents with the application for fee review: ] This section supersedes 1 Pa. Code §§ 31.5, 31.11, 31.12, 31.13, 31.14, 31.15, 31.26, 33.31, 33.32 and 33.34—33.37.

[ (1) The applicable Medicare billing form.

(2) The most recent Medicare interim rate notification.

(3) The most recent Notice of Program Reimbursement.

(4) The most recently audited Medicare cost report.

(5) The required medical report form, together with documentation supporting the procedures performed or services rendered.

(6) The explanation of reimbursement, if available.

(c) For treatment rendered on and after January 1, 1995, the items specified in subsections (b)(2)—(4) shall be submitted if the requirements of § 127.155 (relating to medical fee updates on and after January 1, 1995—outpatient acute care providers, specialty hospitals and other cost-reimbursed providers) have been met. ]

§ 127.255. Premature applications for fee review.

(a) The Bureau will return, and will not issue administrative decisions and orders on applications for fee review [ prematurely ] filed by providers [ when one of the following exists ] for any of the following reasons:

(1) The insurer [ denies ] has issued an EOR denying liability for the alleged work injury or denying that the treatment is causally related to the work injury.

(2) The insurer accurately informs the Bureau that it has filed a request for utilization review of the treatment under Subchapter [ C ] E (relating to medical treatment review).

\* \* \* \* \*

(b) This section supersedes 1 Pa. Code §§ 31.5, 31.11, 31.12, 31.13, 31.14, 31.15, 31.26, 33.31, 33.32 and 33.34—33.37.

§ 127.256. Administrative decision and order on an application for fee review.

(a) [ When ] The Bureau will render an administrative decision and order if a provider has filed [ all ] the application, proof of service and all documentation required by § 127.203 (relating to medical bills—submission of medical documentation) unless the application will be returned under § 127.255 (relating to premature applications for fee review) [ and is entitled to a decision on the merits of the application for fee review, the Bureau will render an administrative decision within 30 days of receipt of all required documentation from the provider ].

(b) [ The Bureau will, prior to ] Before rendering [ the administrative ] its decision[, investigate the matter ] and order, the Bureau may contact the insurer to obtain its response to the application for fee review. If the Bureau can determine from the application and documentation submitted by the provider that the application was not submitted within the time permitted by § 127.252 (relating to application for fee review—filing and service), it will not contact the insurer and will issue an administrative decision and order denying the application.

(c) The Bureau may correct or amend typographical or mathematical errors in its administrative decision and order within 15 days of rendering its administrative decision and order.

(d) Subsections (a)—(c) supersede 1 Pa. Code §§ 31.5, 31.11, 31.12, 31.13, 31.14, 31.15, 31.26, 33.31, 33.32 and 33.34—33.37.

§ 127.257. Contesting an administrative decision and order on a fee review.

(a) A provider or insurer shall have the right to contest an adverse administrative decision and order on an application for fee review.

(b) The party contesting the administrative decision and order shall file [ an original and seven copies of ] a written request for a hearing with the Bureau on a Bureau-prescribed form within the later of 30 days of the date of the administrative decision and order on the fee review, or 30 days of the date of any corrected or amended administrative decision and order issued under § 127.256(c) (relating to an administrative decision and order on an application for fee review). The hearing request shall be [ mailed to the Bureau at the address listed on the administrative decision ] filed with the Bureau, signed by the appellant or its counsel and served on all parties as required by § 127.2 (relating to filing and service—computation of time). A signature stamp may not be used.

(c) [ A copy of the request for a hearing shall be served upon the prevailing party in the fee dispute. A proof of service, indicating the person served, the date of service and the form of service, shall be provided to the Bureau at the time the request for hearing is filed.

(d) An untimely request for a hearing may be dismissed without further action by the Bureau. ] Filing of a request for a hearing shall act as a supersedeas of the administrative decision and order on the fee review.

(e) Subsections (a)—(c) supersede 1 Pa. Code §§ 31.5, 31.11, 31.12, 31.13, 31.14, 31.15, 31.26, 33.31, 33.32, 33.34—33.37, 35.1-35.16 and 35.18—35.41.

§ 127.258. Bureau as intervenor.

(a) The Bureau may[, as an intervenor ] intervene as a party in the fee review matter[, defend the Bureau's initial administrative decision on the fee review ].

(b) This section supersedes 1 Pa. Code §§ 35.27—35.32.

§ 127.259. Fee review hearing.

(a) [ The Bureau will assign the request for a hearing to a hearing officer who will schedule a de novo proceeding. All parties will receive reasonable notice of the hearing date, time and place. ] If a request for hearing was timely and properly filed, the hearing officer will schedule one or more hearings. The hearing officer will notify all parties of hearing dates, times and places. If a request for hearing does not appear to have been timely or properly filed, the hearing officer may dismiss the request without further action, or may schedule a hearing to determine whether the request was timely and properly filed.

(b) [ The hearing ] The hearing officer may require that the parties complete a prehearing filing regarding the underlying fee dispute.

(c) Hearings will be conducted in a manner to provide all parties the opportunity to be heard, and will be governed by applicable provisions of 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) unless this chapter supersedes those rules. The hearing officer will not be bound by strict rules of evidence. All relevant evidence of reasonable probative value may be received into evidence. Reasonable examination and cross-examination of witnesses will be permitted.

**[(c)] (d) [The parties may be represented by legal counsel, but legal representation at the hearing is not required.] Legal representation at the hearing is governed by 1 Pa. Code Chapter 31, Subchapter C (relating to representation before agency).**

**[(d)] (e) \* \* \***

**(f) All parties will be provided the opportunity to submit briefs addressing issues raised. [The insurer shall have the burden of proving by a preponderance of the evidence that it properly reimbursed the provider.]**

**(g) Subsections (a)–(f) supersede 1 Pa. Code §§ 31.5, 31.11, 31.12, 31.13, 31.14, 31.15, 31.26, 33.31, 33.32, 33.34–33.37, 35.1–35.24, 35.35, 35.37–35.41 and 35.54.**

**§ 127.259a. Fee review hearing—burden of proof.**

**(a) When proper reimbursement is disputed, the insurer shall have the burden of proving by a preponderance of the evidence that it properly reimbursed the provider.**

**(b) When a party alleges that procedural requirements have not been met or that the provider did not timely file its application for fee review, the party making the allegation shall have the burden of proving by a preponderance of the evidence that the opposing party has failed to meet these requirements.**

**(c) The hearing officer will dismiss an application for fee review when the application is premature under § 127.255 (relating to premature applications for fee review).**

**(d) The hearing officer may dismiss a request for hearing when the moving party fails to appear and present evidence at a scheduled hearing.**

**(e) Subsections (a)–(d) supersede 1 Pa. Code §§ 31.5, 31.11, 31.12, 31.13, 31.14, 31.15, 31.26, 33.31, 33.32, 33.34–33.37, 35.1–35.24, 35.35, 35.37–35.41, 35.54, 35.201–35.202, and 35.205–35.214.**

**§ 127.260. Fee review adjudications.**

**(a) The hearing officer will issue a fee review adjudication consisting of a written decision and order [within 90 days] following the close of the record. The decision and order will include all relevant findings and conclusions, and state the rationale for the fee review adjudication.**

\* \* \* \* \*

**(c) The fee review adjudication will be served upon all parties, intervenors and [counsel of record] their attorneys, if known.**

**(d) Subsections (a)–(c) supersede 1 Pa. Code §§ 31.5, 31.11, 31.12, 31.13, 31.14, 31.15, 31.26, 33.31, 33.32, 33.34–33.37, 35.1–35.24, 35.35, 35.37–35.41, 35.54, 35.201–35.202 and 35.205–35.214, and 1 Pa. Code Chapter 35, Subchapter H.**

**§ 127.261. Further appeal rights.**

**A party aggrieved by a fee review adjudication rendered [pursuant to] under § 127.260 (relating to fee review adjudications) may file an appeal to Commonwealth Court within 30 days [from] of the mailing date of the decision.**

**SELF-REFERRALS**

**§ 127.301. Referral standards.**

\* \* \* \* \*

**(d) For purposes of section 306(f.1)(3)(iii) of the act, a CCO will be considered a single [health care] provider.**

**§ 127.302. Resolution of referral disputes by Bureau.**

**(a) If an insurer determines that a [bill has been submitted for] billed treatment has been rendered in violation of the referral standards, the insurer is not [liable] required to pay the bill. [Within 30 days of receipt of the provider's bill and medical report, the] An insurer shall supply a written [explanation of benefits] EOR under § 127.209 (relating to explanation of reimbursement paid), stating the basis for believing that the [self-referral provision has] referral standards have been violated.**

\* \* \* \* \*

**(c) The insurer shall have the burden of proving by a preponderance of the evidence that a violation of the [self-referral provisions] referral standards has occurred.**

**Subchapter D. EMPLOYER LIST OF DESIGNATED PROVIDERS**

**§ 127.751. Employer's option to establish a list of designated [health care] providers.**

**(a) Employers [have the option to] may establish a list of designated [health care] providers under section 306(f.1)(1)(i) of the act (77 P. S. § 531(1)(i)).**

**(b) If an employer has established a list of providers [which] that meets the requirements of the act and this subchapter, an [employee] employee with a work-related injury or illness shall seek treatment with one of the designated providers from the list. The [employee] employee shall continue to treat with the same provider or another designated provider for 90 days from the date of the first visit for the treatment of the work injury or illness.**

**(c) The employer may not require treatment with any one specific provider on the list, nor may the employer restrict the [employee] employee from switching from one designated provider to another designated provider.**

**(d) An [employee] employee may not be required to obtain emergency medical treatment from a listed provider. However, once emergency conditions no longer exist, the injured [employee] employee shall treat with a listed provider for the remainder of the 90-day period.**

**(e) If an employer's list of designated providers fails to comport with the act and this subchapter, the [employee] employee shall have the right to seek medical treatment from any provider from the time of the initial visit.**

**(f) If an employer chooses not to establish a list of designated providers, the [employee] employee shall have the right to seek medical treatment from any provider from the time of the initial visit.**

**(g) If a designated provider prescribes invasive surgery for the [employee] employee, the [employee] employee may seek an additional opinion from any**

healthcare provider of the [employee's] employee's choice. If the additional opinion differs from the opinion of the designated provider and the additional opinion provides a specific and detailed course of treatment, the [employee] employee shall determine which course of treatment to follow. If the [employee] employee opts to follow the course of treatment outlined by the additional opinion, the treatment shall be performed by one of the [health care] providers on the employer's designated list for 90 days from the date of the first visit to the provider of the additional opinion.

§ 127.752. Contents of list of designated [health care] providers.

(a) If an employer establishes a list of designated [health care] providers, there shall be at least six providers on the list.

\* \* \* \* \*

(b) The employer shall prominently include the names, addresses, telephone numbers and area of medical specialties of each of the designated providers on the list. The employer may not require the employee to report to a single point of contact before receiving treatment from a provider on the list.

(c) The employer shall include on the list only providers who are geographically accessible and whose specialties are appropriate based on the anticipated work-related medical problems of the [employees] employees.

\* \* \* \* \*

(e) If the list references a single point of contact or referral for more than one provider on the list, all providers associated with the point of contact or referral shall be considered a single provider under subsection (a).

(f) The employer may change the designated providers on a list. However, changes to the list may not affect the options available to an [employee] employee who has already commenced the 90-day treatment period.

§ 127.753. Disclosure requirements.

(a) The employer may not include on the list of designated [health care] providers a physician or other [health care] provider who is employed, owned or controlled by the employer or the employer's insurer, unless employment, ownership or control is disclosed on the list.

\* \* \* \* \*

§ 127.754. Prominence of list of designated providers.

If an employer chooses to establish a list of providers, the list shall be posted in prominent and readily accessible places at the worksite. These places include places used for treatment and first aid of injured [employees] employees and [employee] employee informational bulletin boards.

§ 127.755. Required notice of [employee] employee rights and duties.

(a) If a list of designated providers is established, the employer shall provide a clearly written notice to an injured [employee] employee of the [employee's] employee's rights and duties under section 306(f.1)(1)(i) of the act (77 P. S. § 531(1)(i)).

(b) The contents of the written notice [shall] must, at a minimum, contain the following conditions:

(1) The [employee] employee has the duty to obtain treatment for work-related injuries and illnesses from one or more of the designated [health care] providers for 90 days from the date of the first visit to a designated provider.

(2) The [employee] employee has the right to have all reasonable medical supplies and treatment related to the injury paid for by the employer as long as treatment is obtained from a designated provider during the 90-day period.

(3) The [employee] employee has the right, during this 90-day period, to switch from one [health care] provider on the list to another provider on the list, and that all the treatment shall be paid for by the employer.

(4) The [employee] employee has the right to seek treatment from a referral provider if the [employee] employee is referred to him by a designated provider, and the employer shall pay for the treatment rendered by the referral provider.

(5) The [employee] employee has the right to seek emergency medical treatment from any provider, but that subsequent nonemergency treatment shall be by a designated provider for the remainder of the 90-day period.

\* \* \* \* \*

(7) The employee has the right to seek treatment from any [health care] provider after the 90-day period has ended, and that treatment shall be paid for by the employer, if it is reasonable and necessary.

(8) The employee has the duty to notify the employer of treatment by a nondesignated provider within 5 days of the first visit to that provider. The employer may not be required to pay for treatment rendered by a nondesignated provider prior to receiving this notification. However, the employer shall pay for these services once notified, unless the treatment is found to be unreasonable by a URO, under Subchapter [C] E (relating to medical treatment review).

(9) The employee has the right to seek an additional opinion from any [health care] provider of the employee's choice when a designated provider prescribes invasive surgery for the employee. If the additional opinion differs from the opinion of the designated provider and the additional opinion provides a specific and detailed course of treatment, the employee shall determine which course of treatment to follow. If the employee opts to follow the course of treatment outlined by the additional opinion, the treatment shall be performed by one of the [health care] providers on the employer's designated list for 90 days from the date of the first visit to the provider of the additional opinion.

\* \* \* \* \*

(d) The employer's duty under subsection (a) shall be evidenced by the employee's written acknowledgment of having been informed of and having understood the notice of the employee's rights and duties. Any failure of the employer to provide [and evidence] the notification relieves the employee from any duties specified in the notice, and the employer remains liable for all treatment rendered to the employee. However, an employee may not refuse to sign an acknowledgment to avoid duties specified in the notice.

(Editor's Note: The following text is new. It has been printed in regular type to enhance readability.)

### Subchapter E. MEDICAL TREATMENT REVIEW

#### UR—GENERAL REQUIREMENTS

- Sec.  
 127.801. Review of medical treatment generally.  
 127.802. Treatment subject to review.  
 127.803. Assignment of cases to UROs.  
 127.804. Prospective, concurrent and retrospective review.  
 127.805. Requests for UR—filing and service.  
 127.805a. UR of medical treatment prior to acceptance of claim.  
 127.806. Requests for UR—assignment by the Bureau.  
 127.807. Requests for UR—reassignment.  
 127.808. Requests for UR—conflicts of interest.  
 127.809. Requests for UR—withdrawal.

#### UR—ENTIRE COURSE OF TREATMENT

- 127.811. UR of entire course of treatment.

#### UR—PRECERTIFICATION

- 127.821. Precertification.  
 127.822. Precertification—insurer obligations.  
 127.823. Precertification—provider-filed requests.  
 127.824. Precertification—employee-filed requests.  
 127.825. Assignment of proper requests for precertification.

#### PROSPECTIVE, CONCURRENT AND RETROSPECTIVE UR

- 127.831. Prospective, concurrent and retrospective UR—insurer requests.  
 127.832. Concurrent and retrospective UR—payment obligations.  
 127.833. Continuing effect of UR determinations.

#### REQUESTS FOR UR—RECERTIFICATION AND REDETERMINATION

- 127.841. Requests for UR—recertification.  
 127.842. Requests for UR—redetermination.

#### URO OPERATIONS

- 127.851. Requesting and providing medical records.  
 127.852. Scope of review of UROs.  
 127.853. Extent of review of medical records.  
 127.854. Obtaining medical records—provider under review.  
 127.855. Employee personal statement.  
 127.856. Insurer submission of studies.  
 127.857. Obtaining medical records—other treating providers.  
 127.858. Obtaining medical records—dependent medical exams.  
 127.859. Obtaining medical records—duration of treatment.  
 127.860. Obtaining medical records—reimbursement of costs of provider.  
 127.861. Provider under review's failure to supply medical records.  
 127.862. Requests for UR—deadline for URO determination.  
 127.863. Assignment of UR request to reviewer.  
 127.864. Duties of reviewers—generally.  
 127.865. Duties of reviewers—conflict of interest.  
 127.866. Duties of reviewers—content of reports.  
 127.867. Duties of reviewers—signature and verification.  
 127.868. Duties of reviewers—forwarding report and medical records to URO.  
 127.869. Duties of UROs—review of report.  
 127.870. Form and service of determinations.  
 127.871. Determination against insurer—payment of medical bills.

#### UR—PETITION FOR REVIEW

- 127.901. Petition for review of UR determination.  
 127.902. Petition for review—time for filing.  
 127.903. Petition for review—notice of assignment and service.  
 127.904. Petition for review—no answer allowed.  
 127.905. Petition for review—transmission of records  
 127.906. Petition for review by Bureau—hearing and evidence.

#### PEER REVIEW

- 127.1001. Peer review—availability.  
 127.1002. Peer review—procedure upon motion of party.  
 127.1003. Peer review—interlocutory ruling.  
 127.1004. Peer review—forwarding request to Bureau.  
 127.1005. Peer review—assignment by the Bureau.  
 127.1006. Peer review—reassignment.  
 127.1007. Peer review—conflicts of interest.  
 127.1008. Peer review—withdrawal.  
 127.1009. Obtaining medical records.  
 127.1010. Obtaining medical records—dependent medical exams.  
 127.1011. Provider under review's failure to supply medical records.  
 127.1012. Assignment of peer review request to reviewer by PRO.  
 127.1013. Duties of reviewers—generally.  
 127.1014. Duties of reviewers—conflict of interest.  
 127.1015. Duties of reviewers—finality of decisions.  
 127.1016. Duties of reviewers—content of reports.  
 127.1017. Duties of reviewers—signature and verification.

- 127.1018. Duties of reviewers—forwarding report and records to PRO.  
 127.1019. Duties of PRO—review of report.  
 127.1020. Peer review—deadline for PRO determination.  
 127.1021. PRO reports—filing with judge and service.  
 127.1022. PRO reports—evidence.  
 127.1023. PRO reports—payment.

#### URO/PRO AUTHORIZATION

- 127.1051. Authorization of UROs/PROs.  
 127.1052. UROs/PROs authorized prior to (the effective date of these amendments).

#### UR—GENERAL REQUIREMENTS

### § 127.801. Review of medical treatment generally.

(a) Throughout this subchapter the words “insurer” and “employer” shall be used interchangeably.

(b) UR may be requested by or on behalf of the insurer or employee.

(c) UR may be filed by a provider on behalf of an employee who seeks medical treatment from that provider.

(d) A provider, employee or insurer that seeks or is subject to UR shall be a party to the UR.

(e) UR of medical treatment shall be conducted only by organizations authorized as UROs by the Secretary under § 127.1051 (relating to authorization of UROs/PROs).

(f) The Bureau will return any request for UR which is incomplete or on which the proof of service has not been signed.

(g) A party aggrieved by a UR determination may file a petition for review of UR, to be heard and decided by a workers' compensation judge under §§ 127.901—127.906 (relating to UR—petition for review).

### § 127.802. Treatment subject to review.

Treatment for work-related injuries rendered on and after August 31, 1993, may be subject to review under this subchapter.

### § 127.803. Assignment of cases to UROs.

(a) The Bureau will assign requests for UR to authorized UROs.

(b) The Bureau will not assign and will return requests for UR of treatment that is already under review at the time of filing or which is subject to an effective determination, recertification or redetermination under § 127.833 (relating to continuing effect of UR determinations).

### § 127.804. Prospective, concurrent and retrospective review.

UR of treatment may be prospective, concurrent or retrospective.

### § 127.805. Requests for UR—filing and service.

(a) A party seeking UR of treatment rendered under the act shall file the Bureau-prescribed form.

(b) The request for UR shall be served on all parties and their known counsel.

(c) The filing party shall complete the proof of service on the form.

(d) Requests for UR shall be sent to the Bureau at the address listed on the form or filed electronically as the Bureau may permit.

(e) The Bureau will not accept and will return UR requests when it can determine any of the following:

(1) The UR requests review of treatment addressed by a previous UR determination.

- (2) The UR request is not complete.
- (3) The UR request was not served on all parties to the request.
- (4) The treatment under review was not treatment for purposes of this chapter.
- (5) The request does not identify all providers who rendered care to the injured employee for the work injury.
- (6) The provider indicated as the provider under review did not provide health care services to the employee or is not a provider under this chapter.

(f) An insurer's obligation to pay medical bills under § 127.208 (relating to time for payment of medical bills) shall be tolled only when a proper request for UR has been filed with and accepted by the Bureau in accordance with this subchapter.

**§ 127.805a. UR of medical treatment prior to acceptance of claim.**

(a) The insurer shall pay for treatment found to be reasonable or necessary under § 127.208 (relating to time for payment of medical bills).

(b) When an insurer requests UR but has not filed documents with the Bureau admitting liability for a work-related injury, or is not subject to a determination imposing this liability, it may not later disclaim liability for the treatment under review in the request for UR.

**§ 127.806. Requests for UR—assignment by the Bureau.**

(a) The Bureau will assign a properly filed request for UR to an authorized URO.

(b) The Bureau will send a notice of assignment of the request for UR to the following:

- (1) The URO.
- (2) The employee.
- (3) The insurer.
- (4) All of the providers under review.
- (5) The attorneys for all of the parties, if known.

**§ 127.807. Requests for UR—reassignment.**

(a) If a URO is unable to perform a request for UR assigned to it by the Bureau, the URO shall return the request for UR to the Bureau for reassignment within 5 days of its receipt of the Notice of Assignment.

(b) A URO may not directly reassign a request for UR to another URO.

(c) A URO shall return a request for UR assigned to it by the Bureau if the URO has a conflict of interest with the request under § 127.808 (relating to requests for UR—conflicts of interest).

(d) A URO shall be deemed to have received a Notice of Assignment on the date that the Bureau transmits the notice to the URO by electronic means or by facsimile.

**§ 127.808. Requests for UR—conflicts of interest.**

A URO shall have a conflict of interest and return a request for UR to the Bureau for reassignment if any of the following exist:

- (1) The URO has a previous involvement with the patient or with the provider under review regarding the same underlying claim, except as permitted by §§ 127.841 and 127.842 (relating to requests for UR—recertification; and requests for UR—redetermination).

(2) The URO has provided case management services in a matter involving the patient whose treatment is under review.

(3) The URO has provided vocational rehabilitation services in a matter involving the patient whose treatment is under review.

(4) The URO is owned by or has a contractual arrangement with a party to the review.

(5) The URO has assigned utilization review or peer review matters to the provider under review in the provider's capacity as a reviewer.

**§ 127.809. Requests for UR—withdrawal.**

(a) A party may withdraw a request for UR by notifying the Bureau, in writing, that it seeks to withdraw the request for UR. A party may not send the withdrawal notification directly to the URO.

(b) The Bureau will promptly notify the URO of the withdrawal.

(c) The insurer shall pay the costs of the withdrawn UR.

(d) A withdrawal of a request for UR shall be with prejudice.

**UR—ENTIRE COURSE OF TREATMENT**

**§ 127.811. UR of entire course of treatment.**

(a) An insurer may request UR of the entire course of treatment rendered to the employee, regardless of the license or specialty of the providers rendering the treatment. This UR shall be retrospective, concurrent and prospective.

(b) An insurer shall make payment for all related medical bills issued more than 30 days before the date the UR request is filed with the Bureau under § 127.208 (relating to time for payment of medical bills).

(c) In response to requests under this section, the URO shall assign each portion of the review rendered by each provider to a reviewer having the same professional license and specialty as the provider rendering treatment to the employee. An inconsistency between reviewers regarding treatment rendered by differently licensed or specialty providers shall be resolved by the URO through consultation of the involved reviewers.

**UR—PRECERTIFICATION**

**§ 127.821. Precertification.**

An employee or provider may seek precertification of treatment that has not yet been provided. If a request for precertification of the same treatment is filed by both a provider and employee, the Bureau will consolidate the requests as if a single request had been filed.

**§ 127.822. Precertification—insurer obligations.**

(a) Treatment that has not yet been rendered may be precertified as reasonable and necessary in response to a request for prospective UR. Before requesting precertification, the parties shall complete the following:

(1) The employee or provider seeking precertification of treatment shall submit a Bureau-prescribed form to the insurer. The form must contain a request for precertification of treatment, and the employee or provider shall, on the form, specifically identify the treatment for which precertification is requested.

(2) The insurer shall respond by completing and returning the form to the employee and provider listed on the form within 10 days of the date upon which the form

was mailed. The provider or employee may evidence the date of mailing through the use of the United States Postal Service Form 3817 (Proof of Mailing).

(b) If the insurer responds that it is willing to pay for the treatment, the Bureau will not process any request for precertification of the treatment. After the treatment has been provided, the insurer may not request, and the Bureau will not assign, a retrospective UR regarding the same treatment. The insurer shall pay for the treatment as if there had been an uncontested UR determination finding that the treatment was reasonable and necessary.

(c) If the insurer declines to pay for the treatment, the insurer shall indicate the reasons for its denial as set forth on the Department-designated form. If no reasons are indicated on the form, or if the insurer has failed to return the form to the employee or provider within the 10 days under subsection (a)(2), the insurer shall pay for the treatment.

(d) If the insurer denies a causal relationship between the work-related injury and the treatment or denies liability for the work injury on the form, the Bureau will not process a request for precertification. The provider or employee may refile the request when the underlying liability is accepted by the insurer or determined by a workers' compensation judge. If a workers' compensation judge determines that the insurer improperly denied the existence of a causal relationship or liability for the injury, penalties may be assessed under section 435 of the act (77 P. S. § 501). In determining whether the underlying liability has been accepted or determined, the Bureau may utilize information contained in its official records.

(e) If the insurer does not agree to pay for the treatment but does not contest liability or causation, the provider or employee may file a request for precertification with the Bureau.

(f) An insurer's denial of payment for treatment later determined to be reasonable and necessary may result in the imposition of penalties under section 435 of the act.

**§ 127.823. Precertification—provider-filed requests.**

(a) A provider filing a request for precertification shall detail the treatment plan, procedure or referral that is the subject of the request on or in an attachment to the form.

(b) If the provider seeks precertification of a referral, the provider shall serve a copy of the request on the provider to whom the referral will be made.

(c) The Bureau may return a request that fails to comply with this subchapter.

**§ 127.824. Precertification-employee-filed requests.**

(a) When an employee seeks precertification of treatment, the employee shall identify the provider who may provide the treatment under review. The assigned URO shall contact the provider identified by the employee. The URO shall contact the provider in writing and request that the provider submit the treatment plan, procedure or referral for the treatment under review within 10 days of the request.

(b) A provider's failure to timely supply information under this section shall result in a determination that the treatment under review is unreasonable and unnecessary.

**§ 127.825. Assignment of proper requests for precertification.**

If the Bureau determines that the requester is entitled to request precertification, the Bureau will assign the

request to a URO in accordance with this chapter. The Bureau's assignment or nonassignment of a UR to a URO under this section is interlocutory and is subject to appeal only after the UR determination is rendered. An appeal shall be permitted under § 127.901 (relating to petition for review of UR determination).

**PROSPECTIVE, CONCURRENT AND RETROSPECTIVE UR**

**§ 127.831. Prospective, concurrent and retrospective UR—insurer requests.**

(a) An insurer may request review of treatment that the employee is currently undergoing or may undergo in the immediate future.

(b) If the Bureau determines that the requester is entitled to request UR, the Bureau will assign the request to a URO in accordance with this chapter. The Bureau's assignment or nonassignment of a UR to a URO under this section is interlocutory and is subject to appeal only after the UR determination is rendered. An appeal shall be permitted under § 127.901 (relating to petition for review of UR determination).

**§ 127.832. Concurrent and retrospective UR—payment obligations.**

(a) An insurer shall make payment for all related medical bills issued more than 30 days before the date the UR request is filed with the Bureau under § 127.208 (relating to time for payment of medical bills).

(b) If the insurer is contesting liability for the work injury, the 30 days in which to request retrospective UR is tolled pending the insurer's acceptance of liability or a workers' compensation judge's determination of liability.

**§ 127.833. Continuing effect of UR determinations.**

(a) A determination that prospective treatment is reasonable and necessary remains effective for continuing treatment only to the extent specified in the determination.

(b) An employee or provider who was a party to a determination granting precertification of treatment may request that the treatment be recertified as reasonable and necessary as permitted by § 127.841 (relating to requests for UR—recertification).

(c) A determination that treatment is unreasonable or unnecessary remains effective for all treatment found unreasonable or unnecessary, regardless of the provider who renders the treatment, until the employee demonstrates that a change in the employee's medical condition merits redetermination of the treatment.

(d) An employee or provider may request redetermination of treatment previously determined to be unreasonable or unnecessary under § 127.842 (relating to requests for UR—redetermination) if a change in the employee's medical condition has altered the reasonableness or necessity of treatment.

**REQUESTS FOR UR—RECERTIFICATION AND REDETERMINATION**

**§ 127.841. Requests for UR-recertification.**

(a) If a request for UR resulted in a determination that treatment was or is reasonable and necessary, the employee or provider may request that the treatment be recertified as reasonable and necessary.

(b) The Bureau will not accept a request for recertification submitted more than 30 days before the expiration of a preceding UR or recertification relating to the same treatment.

(c) The Bureau will assign requests for recertification of treatment to the URO that previously determined that treatment was reasonable and necessary.

**§ 127.842. Requests for UR—redetermination.**

(a) If a request for UR resulted in a determination that prospective treatment is unreasonable or unnecessary, the employee or provider who was a party to the determination may request a redetermination of the treatment upon evidence that the employee's medical condition has changed and the treatment is now reasonable and necessary.

(b) Redetermination shall only be permitted when medical records of treatment occurring since the initial determination demonstrate that the employee's medical condition has changed.

(c) A redetermination under this section shall be prospective in effect and only address treatment rendered after the initial determination.

(d) The Bureau will assign requests for redetermination to the URO that rendered the initial determination that care was unreasonable or unnecessary. The assigned reviewer will determine if the employee's medical condition has changed and the treatment under review is now reasonable and necessary.

**URO OPERATIONS**

**§ 127.851. Requesting and providing medical records.**

(a) A URO shall request records from the treating providers listed on the request for UR within 5 days of the date of the Notice of Assignment.

(b) Within 5 days of the date of the Notice of Assignment, the URO shall request that the provider under review provide a complete set of records relating to the work injury. The URO shall submit the request to the provider by certified mail.

(c) The provider under review shall mail all requested medical records to the URO within 15 days of the postmark date of the URO's request.

(d) Upon a URO's request for medical records under § 127.841 and 127.842 (relating to requests for UR—recertification; and requests for UR—redetermination), the provider under review shall mail all requested medical records to the URO within 7 days of the postmark date of the URO's request.

**§ 127.852. Scope of review of UROs.**

(a) UROs shall decide only the reasonableness or necessity of the treatment under review.

(b) UROs shall decide the extent to which treatment subject to concurrent or prospective review will remain reasonable and necessary in the future.

(c) UROs may not decide, and reviewers may not comment upon, any of the following issues:

(1) The causal relationship between the treatment under review and the employee's work-related injury.

(2) Whether the employee is still disabled.

(3) Whether maximum medical improvement has been obtained.

(4) Whether the provider under review performed the treatment under review as a result of an unlawful self-referral.

(5) The reasonableness of the fees charged by the provider under review.

(6) The appropriateness of the diagnosis, or the diagnostic or procedural codes used by the provider for billing purposes.

(7) Other issues which do not directly relate to the reasonableness or necessity of the treatment under review, except as provided in § 127.842 (relating to requests for UR—redetermination).

**§ 127.853. Extent of review of medical records.**

To determine the reasonableness or necessity of the treatment under review, UROs shall attempt to obtain for review all available medical records of all treatment rendered by all providers to the employee for the work-related injury.

**§ 127.854. Obtaining medical records—provider under review.**

(a) A URO shall request records from the provider under review in writing. The written request for records shall be sent by certified mail, return receipt requested.

(b) The provider under review, or his agent, shall sign a verification stating that to the best of the provider's knowledge, the medical records provided constitute the true and complete medical record as it relates to the employee's work injury. When records are not accompanied by the appropriate verification, the URO shall return the records to the provider, may not consider the records in issuing its determination, and shall disregard the fact that the records were forwarded to the URO.

**§ 127.855. Employee personal statement.**

(a) The employee may submit a statement regarding the reasonableness and necessity of the treatment under review.

(b) Within 5 days of the date of the Notice of Assignment, the URO shall provide written notification to the employee that the employee may submit a statement regarding the reasonableness and necessity of the treatment under review within 15 days of the date of the URO's written notice.

(c) Within 15 days of the date of the written notice referenced in subsection (b), the employee may submit to the URO a personal statement regarding the reasonableness and necessity of treatment. The personal statement must meet all of the following conditions:

(1) It may contain only discussion of treatment that the injured employee has received or is receiving from the provider under review.

(2) It may not contain discussion of an independent medical examination or impairment rating evaluation that the injured employee may have had.

(3) It may not contain discussion of a workers' compensation judges' decisions or legal, payment or claims issues.

(4) It may not contain enclosures, attachments or documentation.

(5) It may identify providers who treated the employee for the work injury which were not identified on the request for UR.

(6) It shall be signed by the injured employee.

(d) The URO shall redact any portion of the employee's statement that provides information prohibited under subsection (c) before sending the statement to the reviewer. The URO or the reviewer may not use any information prohibited under subsection (c) in formulating a determination.



(e) The URO and reviewer may utilize the employee's statement in formulating a report and determination subject to the restrictions of this subchapter.

**§ 127.856. Insurer submission of studies.**

Within 10 days of the date of the Notice of Assignment, the insurer may submit peer-reviewed, independently funded studies and articles and reliable medical literature which are relevant to the reasonableness and necessity of the treatment under review to the URO.

**§ 127.857. Obtaining medical records—other treating providers.**

(a) A URO shall request medical records from other treating providers in writing.

(b) A provider or his agent who supplies medical records to a URO under this section shall sign a verification stating that to the best of the provider's knowledge the medical records provided constitute the true and complete medical chart as it relates to the employee's work injury. When records are not accompanied by the appropriate verification, the URO shall disregard the records and return the records to the provider.

**§ 127.858. Obtaining medical records—-independent medical exams.**

A URO may not request and a party may not supply reports of examinations or evaluations performed at the request of an insurer, employee or attorney for the purposes of litigation. Only the medical records of actual treating providers, and the personal statement and studies referenced in §§ 127.855 and 127.856 (relating to employee personal statement; and insurer submission of studies), may be requested by or supplied to a URO.

**§ 127.859. Obtaining medical records—duration of treatment.**

A URO shall attempt to obtain records from all providers for the entire course of treatment rendered to the employee for the work-related injury that is the subject of the UR request, regardless of the period of treatment under review.

**§ 127.860. Obtaining medical records—reimbursement of costs of provider.**

(a) A provider seeking reimbursement of copying and postage costs shall submit an itemized bill for the copying and postage costs to the URO.

(b) Within 30 days of receiving medical records, the URO shall reimburse the provider for the requested record-copying costs at the rate specified by Medicare and for actual postage costs. The Bureau will publish changes to the Medicare rate in the *Pennsylvania Bulletin*.

(c) Reproduction of radiologic films shall be reimbursed at the usual and customary charge. The cost of reproducing the films shall be itemized separately in the URO's bill for performing the UR.

**§ 127.861. Provider under review's failure to supply medical records.**

(a) If the provider under review fails to mail medical records to the URO within 15 days of the date of the URO's request for the records under § 127.851 (relating to requesting and providing medical records), the URO shall render a determination that the treatment under review is unreasonable and unnecessary.

(b) A provider's failure to supply records under this section shall constitute a waiver of its opportunity to participate in the UR process relating to the treatment under review.

(c) A provider that fails, without reasonable cause or excuse, to supply records under this section may not introduce evidence regarding the reasonableness and necessity of the treatment in an appeal under § 127.901 (relating to petition for review of UR determination).

**§ 127.862. Requests for UR—deadline for URO determination.**

(a) A request for UR shall be deemed complete upon the URO's receipt of the medical records or 18 days from the date of the notice of assignment, whichever is earlier.

(b) A URO shall complete its review and render its determination within 20 days of a completed request for UR except as provided in subsection (c).

(c) A URO shall complete its review and render its determination within 10 days of a completed request for UR filed under §§ 127.841 and 127.842 (relating to request for UR—recertification; and request for UR—redetermination).

**§ 127.863. Assignment of UR request to reviewer.**

(a) Upon receipt of the medical records, the URO shall forward the medical records, the request for UR, the notice of assignment and a Bureau-prescribed instruction sheet to reviewers licensed by the Commonwealth in the same profession and having the same specialty as the providers under review.

(b) The URO shall redact any material that does not reflect the evaluation and treatment of the patient before forwarding the material to the reviewer. The URO shall forward only medical records and documentation required by this subchapter to the assigned reviewer.

**§ 127.864. Duties of reviewers—generally.**

(a) A reviewer shall issue reports that address the reasonableness and necessity of the treatment under review by reference to the best available clinical evidence regarding the treatment. The reviewer shall apply generally accepted treatment protocols, independently funded peer-reviewed studies and articles, and reliable medical literature appropriate for the review. The reviewer shall specifically reference the protocols, studies, articles and literature in the reviewer's report.

(b) A reviewer shall decide only the issue of whether the treatment under review is reasonable or necessary for the diagnosis of the employee, as rendered by the provider under review.

(c) A reviewer shall assume the existence of a causal relationship between the treatment under review and the employee's work-related injury. The reviewer may not consider or comment upon whether the employee is still disabled, whether maximum medical improvement has been obtained, quality of care, reasonableness of fees or an issue that is not directly relevant to the reasonableness and necessity of treatment rendered to the employee.

(d) In a determination in which the reviewer determines that prospective treatment is reasonable and necessary, the reviewer shall clearly provide a time frame not to exceed 180 days within which the treatment remains reasonable and necessary. The review shall specifically cite to generally accepted treatment protocols, independently funded peer-reviewed studies and articles, and reliable medical literature that support the determination and the time frame in question.

(e) A reviewer shall make a definite determination as to whether the treatment under review is reasonable or necessary. A reviewer may not render advisory opinions regarding whether additional diagnostic tests are needed.

In determining whether the treatment under review is reasonable or necessary, a reviewer may consider whether other courses of treatment exist. A reviewer may not determine that the treatment under review is unreasonable or unnecessary solely because other courses of treatment exist.

(f) If the reviewer is unable, after reviewing all relevant information, to determine whether the treatment under review is reasonable or necessary, the reviewer shall resolve the issue in favor of the provider under review.

**§ 127.865. Duties of reviewers—conflict of interest.**

A reviewer shall return a review to the URO for assignment to another reviewer if any of the following exist or potentially exist:

(1) The reviewer has a previous involvement with the patient or with the provider under review regarding the same underlying claim except as permitted by §§ 127.841 and 127.842 (relating to requests for UR—recertification; and requests for UR—redetermination).

(2) The reviewer has provided case management services in a matter involving the patient whose treatment is under review.

(3) The reviewer has provided vocational rehabilitation services in a matter involving the patient whose treatment is under review.

(4) The reviewer has a contractual relationship with a party in the matter.

**§ 127.866. Duties of reviewers—content of reports.**

A reviewer's written report must contain the following elements:

(1) A listing of the medical records reviewed.

(2) The reviewer's findings and conclusions.

(3) A detailed explanation of the reasons for the conclusions reached by the reviewer. The explanation must cite all applicable generally accepted treatment protocols, independently funded peer-reviewed studies and articles, and reliable medical literature used to support the determination and time frame under review.

**§ 127.867. Duties of reviewers—signature and verification.**

(a) A reviewer shall sign a report. A signature stamp may not be used.

(b) A reviewer shall sign a verification under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) that the reviewer personally reviewed the records and that the report reflects the medical opinions of the reviewer.

**§ 127.868. Duties of reviewers—forwarding report and medical records to URO.**

A reviewer shall forward a report and all medical records reviewed to the URO upon completion of the report.

**§ 127.869. Duties of UROs—review of report.**

(a) A URO shall examine the reviewer's report to ensure that the reviewer has complied with this subchapter.

(b) A URO shall ensure that all records have been returned by the reviewer.

(c) A URO may not contact a reviewer and attempt to persuade the reviewer to change the medical opinions expressed in a report.

**§ 127.870. Form and service of determinations.**

(a) A determination rendered by a URO shall include a medical treatment review determination face sheet on a Bureau-prescribed form and include the reviewer's report. An authorized representative of the URO shall sign the determination face sheet.

(b) When a determination is rendered against the provider under review because the provider under review failed to comply with § 127.851 (relating to requesting and providing medical records), the determination shall consist only of the face sheet. The face sheet must state that the basis for the decision is the provider under review's failure to supply medical records to the URO.

(c) The URO shall serve the determination upon the Bureau, all parties identified on the Notice of Assignment and their attorneys, if known.

(d) The URO shall serve a copy of a "Petition for Review of Utilization Review Determination" on all parties identified on the Notice of Assignment and their attorneys, if known.

**§ 127.871. Determination against insurer—payment of medical bills.**

(a) If the UR determination finds that the treatment reviewed was reasonable or necessary, the insurer shall pay the bills submitted for the treatment in accordance with § 127.208 (relating to time for payment of medical bills).

(b) Interest continues to accrue under section 306 (f.1)(1) of the act (77 P.S. § 511 (1)) during the UR process. The insurer shall pay interest on bills for treatment that is eventually determined to be reasonable and necessary. The filing of a request for UR tolls the payment requirements of § 127.208 only during the consideration of UR. The insurer's failure to timely pay any amount due under this section may result in the imposition of penalties under section 435 of the act (77 P.S. § 991).

**UR—PETITION FOR REVIEW**

**§ 127.901. Petition for review of UR determination.**

A party aggrieved by a UR determination may file a "Petition for Review of Utilization Review Determination."

**§ 127.902. Petition for review—time for filing.**

The petition for review shall be filed with the Bureau within 30 days of the date of the URO's determination.

**§ 127.903. Petition for review—notice of assignment and service.**

(a) The Bureau will assign the petition for review to a workers' compensation judge when there is a UR determination relating to the petition for review.

(b) The Bureau will mail the notice of assignment and the petition for review to the URO, the employee, the insurer, the provider under review, and the attorneys for the parties, if known. The Bureau may mail the notice of assignment to other providers listed on the request for UR.

**§ 127.904. Petition for review—no answer allowed.**

The Bureau will not accept an answer to the petition for review.

**§ 127.905. Petition for review—transmission of records.**

(a) When a petition for review has been filed, the Bureau will forward the URO report to the workers' compensation judge assigned to the case.

(b) Upon the workers' compensation judge's own motion, or motion of any party to the proceeding, the workers' compensation judge may order the URO to forward all medical records obtained for its review to the workers' compensation judge. The URO shall forward all medical records within 10 days of the date of the workers' compensation judge's order.

(c) An authorized agent of the URO shall sign a verification stating that, to the best of the agent's knowledge, the medical records forwarded to the workers' compensation judge is the complete set of medical records obtained by the URO.

(d) When records are provided under subsection (b), the URO shall transmit its itemized bill for record-copying costs to the manager of the Bureau's Medical Treatment Review Section, together with a copy of the workers' compensation judge's order directing the URO to provide the records. The Bureau will reimburse the URO actual postage costs and record-copying costs at the rate specified by Medicare. Reproduction of radiologic films shall be reimbursed at the usual and customary rate.

**§ 127.906. Petition for review by Bureau—hearing and evidence.**

(a) The hearing before the workers' compensation judge shall be a de novo proceeding.

(b) The URO report shall be part of the record before the workers' compensation judge and the workers' compensation judge will consider the report as evidence.

(c) The workers' compensation judge will not be bound by the URO report. The workers' compensation judge may request additional review of the treatment under review under section 420 of the act (77 P. S. § 831).

(d) The workers' compensation judge may disregard evidence offered by any party who has failed to respond to a URO's request for records in the same UR matter, as set forth in § 127.861 (relating to provider under review's failure to supply records).

**PEER REVIEW**

**§ 127.1001. Peer review—availability.**

(a) A workers' compensation judge may, on the workers' compensation judge's own motion or upon the motion of any party, obtain an opinion from an authorized PRO concerning the necessity or frequency of treatment rendered under the act when one of the following exist:

(1) A petition for review of a UR determination has been filed.

(2) The opinion is necessary or appropriate in other litigation proceedings before the worker's compensation judge. Peer review is not necessary or appropriate if there is a pending UR of the same treatment.

(b) A workers' compensation judge is not required to grant a party's motion for peer review under subsection (a).

**§ 127.1002. Peer review—procedure upon motion of party.**

(a) A party may not file a request for UR while a motion for peer review regarding the same treatment is pending.

(b) If the workers' compensation judge does not rule on the motion for peer review within 10 days, the motion shall be deemed denied.

(c) If the motion for peer review is denied, a party may file requests for UR as permitted in this subchapter.

(d) If the motion for peer review is granted, the workers' compensation judge will proceed under § 127.1004 (relating to peer review—forwarding request to Bureau).

**§ 127.1003. Peer review—interlocutory ruling.**

The ruling on a motion for peer review is interlocutory.

**§ 127.1004. Peer review—forwarding request to Bureau.**

(a) A workers' compensation judge may request peer review by submitting a request to the Bureau on a Bureau-prescribed form. The workers' compensation judge will serve a copy of the request upon all parties and their attorneys, if known.

(b) In cases other than petitions for review of a UR determination, the worker's compensation judge will sign and attach subpoenas to the request for peer review. The assigned PRO shall use the subpoenas to obtain medical records.

**§ 127.1005. Peer review—assignment by the Bureau.**

(a) The Bureau will assign a properly filed request for peer review to an authorized PRO.

(b) The Bureau will send a Notice of Assignment of Peer Review to the PRO, the workers' compensation judge, all parties and their attorneys, if known.

**§ 127.1006. Peer review—reassignment.**

(a) If a PRO is unable to perform a request peer review assigned to it by the Bureau, the PRO shall return the request for peer review to the Bureau for reassignment within 5 days of the PRO's receipt of the Notice of Assignment.

(b) A PRO may not reassign a request for peer review to another PRO.

(c) A PRO shall return requests for peer review assigned to it by the Bureau if the PRO has a conflict of interest with the request under § 127.1007 (relating to peer review—conflicts of interest).

(d) A PRO shall be deemed to have received a Notice of Assignment on the date that the Bureau transmits the notice to the URO by electronic means or by facsimile.

**§ 127.1007. Peer review—conflicts of interest.**

A PRO shall have a conflict of interest and shall return a request for peer review to the Bureau for reassignment for any of the following reasons:

(1) The PRO has a previous involvement with the patient or with the provider under review regarding the same underlying claim.

(2) The PRO has provided case management services in a matter involving the patient whose treatment is under review.

(3) The PRO has provided vocational rehabilitation services in a matter involving the patient whose treatment is under review.

(4) The PRO is owned by or has a contractual arrangement with a party to the review.

(5) The PRO has assigned UR or Peer Review matters to the provider under review in the provider under review's capacity as a reviewer.

**§ 127.1008. Peer review—withdrawal.**

(a) A request for peer review shall be withdrawn only upon the written order of the workers' compensation judge. The workers' compensation judge will serve a copy of the order upon the Bureau.

(b) The Bureau will promptly notify the PRO of the withdrawal. The Bureau will pay the costs of the peer review from the Workmen's Compensation Administration Fund.

**§ 127.1009. Obtaining medical records.**

(a) When peer review has been requested on a petition for review of a UR determination, the workers' compensation judge may order the URO to forward to the assigned PRO all medical records received and reviewed for the purposes of the UR.

(b) In all other cases, the PRO shall use the subpoenas supplied under § 127.1004(b) (relating to peer review—forwarding request to Bureau) to obtain medical records from all providers for the entire course of treatment rendered to the employee for the work-related injury. The PRO shall request the medical records within 10 days of the date of the Notice of Assignment.

**§ 127.1010. Obtaining medical records—independent medical exams.**

A PRO may not request and a party may not supply reports of examinations or evaluations performed at the request of an insurer, employee or attorney for the purposes of litigation. Only the medical records of actual treating providers may be requested by or supplied to a PRO.

**§ 127.1011. Provider under review's failure to supply medical records.**

(a) If the provider under review fails to comply with a subpoena issued under this subchapter, the PRO shall report the provider's noncompliance to the workers' compensation judge.

(b) If the provider under review fails to supply medical records, the PRO may not assign the matter to a reviewer, and may not make a determination concerning the necessity or frequency of treatment.

**§ 127.1012. Assignment of peer review request to reviewer by PRO.**

Upon receipt of the medical records, the PRO shall forward the medical records, the request for peer review and the Notice of Assignment to a reviewer licensed by the Commonwealth in the same profession and having the same specialty as the providers under review.

**§ 127.1013. Duties of reviewers—generally.**

A reviewer shall adhere to the requirements of § 127.864 (relating to duties of reviewers—generally).

**§ 127.1014. Duties of reviewers—conflict of interest.**

A reviewer shall return a review to the PRO for assignment to another reviewer if one or more of the following exist or potentially exist:

(1) The reviewer has a previous involvement with the patient or with the provider under review regarding the same underlying claim.

(2) The reviewer has provided case management services in a matter involving the patient whose treatment is under review.

(4) The reviewer has provided vocational rehabilitation services in a matter involving the patient whose treatment is under review.

(5) The reviewer has a contractual relationship with a party in the matter.

**§ 127.1015. Duties of reviewers—finality of decisions.**

(a) A reviewer shall make a definite determination as to the necessity and frequency of the treatment under review. A reviewer may not render advisory opinions on whether additional diagnostic tests are needed. In determining whether the treatment under review is necessary, a reviewer may consider whether other courses of treatment exist. However, a reviewer may not determine that the treatment under review is unreasonable or unnecessary solely because other courses of treatment exist.

(b) If the reviewer is unable, after reviewing all relevant information, to determine whether the treatment under review is necessary or of appropriate frequency, the reviewer shall resolve the issue in favor of the provider under review.

**§ 127.1016. Duties of reviewers—content of reports.**

A reviewer's written report must contain the following elements:

(1) A listing of the medical records reviewed.

(2) The reviewer's findings and conclusions.

(3) A detailed explanation of the reasons for the conclusions reached by the reviewer. The reviewer shall cite all applicable generally accepted treatment protocols, independently funded peer-reviewed studies and articles, and reliable medical literature used to support the determination and timeframe under review.

**§ 127.1017. Duties of reviewers—signature and verification.**

(a) A reviewer shall sign a report. Signature stamps may not be used.

(b) A reviewer shall sign a verification under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) that the reviewer personally reviewed the records and that the report reflects the medical opinions of the reviewer.

**§ 127.1018. Duties of reviewers—forwarding report and records to PRO.**

A reviewer shall forward the reports and all medical records reviewed to the PRO upon completion of the report.

**§ 127.1019. Duties of PRO—review of report.**

(a) A PRO shall examine the reviewer's report to ensure that the reviewer has complied with the requirements of this subchapter.

(b) A PRO shall ensure that all records have been returned by the reviewer.

(c) A PRO may not contact a reviewer and attempt to persuade the reviewer to change the medical opinions expressed in a report.

**§ 127.1020. Peer review—deadline for PRO determination.**

A PRO shall complete its review and render its determination within 15 days of its receipt of the medical records.

**§ 127.1021. PRO reports—filing with judge and service.**

(a) The PRO shall forward its report to the workers' compensation judge.

(b) The PRO shall mail copies of the report by certified mail, return receipt requested, to all parties listed on the Notice of Assignment and their attorneys, if known.

**§ 127.1022. PRO reports—evidence.**

The PRO report shall be a part of the record of the pending case. The workers' compensation judge will consider the report as evidence but is not bound by the report.

**§ 127.1023. PRO reports—payment.**

The PRO shall submit a bill for services relating to its review and report to the workers' compensation judge for approval.

**URO/PRO AUTHORIZATION**

**§ 127.1051. Authorization of UROs/PROs.**

(a) The Bureau may authorize UROs/PROs to perform reviews under this chapter through an award of contracts under 62 Pa.C.S. (relating to Commonwealth Procurement Code). The Bureau will award contracts on a competitive sealed basis in accordance with the Commonwealth Procurement Code.

(b) The request for proposal (RFP) issued by the Bureau will set forth the specific minimum requirements that an offeror's proposal must address. The RFP must require the offeror to describe the specific means by which it will conduct UR/Peer Review operations and comply with this chapter and any other information that the BWC may request. Proposals must demonstrate that the offeror has the ability to meet the requirements set forth in this chapter.

(c) The Bureau is not required to award a contract to every offeror that submits a proposal that meets the minimum requirements established by the RFP.

**§ 127.1052. UROs/PROs authorized prior to (the effective date of these amendments).**

UROs/PROs authorized before \_\_\_\_\_ (*Editor's Note: The effective date of adoption of this proposed rulemaking.*) shall continue to be authorized until the expiration date set forth on the authorization issued by the Bureau.

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